The Development of Green Investment and Its Policies in The Regulation of The Indonesian Government

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Abstract: Green investment is essential in protecting the environment from damage caused by non-green economic activity, including non-green investment. The development of green investment in Indonesia is still slow. Indonesia still uses massive non-renewable resources in addition to renewable resources. Indonesia still has difficulty increasing green investment uses because of its high dependency on non-green investment. The funds issued by the government for non-green investment are more than the fund for green investment. The government uses various ways to increase green investment through green programs and rules. The government needs to implement the right policies so Indonesia’s green investment can run as well as expected. This study aims to examine the development of green investment in Indonesia and the green investment policies in the regulation of the Indonesian government amid current economic growth. This research uses normative legal research methods. Provisions that are the basis of green investment include the 1945 Constitution of the Republic of Indonesia, Law Number 25 of 2007 on Investment, Law Number 16 of 2016, and Presidential Regulation of the Republic Indonesia Number 16 of 2012. The policymaking of green investment can refer to the degrowth and modernization of the policy. It can be seen to refer to the ideas presented by George C.

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INTRODUCTION

Indonesia plays a role in improving the world environment. One of the efforts made by Indonesia is through a green economy, including an investment policy. One of the crucial things in a green economy is preparing
a new economic instrument intended to reduce risk and provide opportunities for the growth of capital flows in sectors. However, until now, it is undeniable that Indonesia is still dependent on non-green investment.

The monetary policy that relies on extraction investment is the essential choice for Indonesia’s financial and development approach. Although investment is one way for the government to grow the country’s economy, unfriendly environmental Investment can trigger ecological degradation.

Government policy is an important instrument for the development of a green investment. According to Tiza in the Katadata Road COP 26 webinar cited by the author on the Katadata website, Indonesia can attract investors if the green sector policy is strong.

The concept of green Investment is a national and international focus. Internationally, Indonesia ratified the United National Framework Convention on Climate Change (UNFCC) into Law Number 16 of 2016. Nationally, Indonesia needs to move into a green investment because of environmental damage and the mandate of the 1945 Constitution of the Republic of Indonesia on national economic development.

The presence of Investment must follow the ground norm of the Indonesian nation, Namely Pancasila, as the fundamental value in statehood and The 1945 Constitution of the Republic of Indonesia. Several rules that discuss the green economy, including Investment which include Law Number 2 of 2007 on Investment as amended by Law Number 11 of 2020, which currently has conditionally unconstitutional status, Law number 16 of 2016 on Ratification of Paris Agreement of the United Nations Framework Convention on Climate Change, Law Number 16 of 2012 on General Investment plans and other Laws. It is necessary to carry out sustainable national economic development based on economic democracy to realize goals in the state.

Various thoughts explain the green economy concept, including Degrowth, Ecological Modernization, and others. Although Investment aims to seek profit, the Investment must still bring benefits to a just and prosperous society without distinguishing positions between the community and investors and others, following what is mandated by the applicable law.

Bintan Rahayu Anisah, in her research entitled “Eksistensi Investasi Hijau dalam Proses Pembangunan Ekonomi sebagai bentuk manifestasi Perlindungan atas Lingkungan Hidup” which discusses green investment from the perspective of environmental protection from a positive legal perspective. In another study conducted by Rafika and Ahmad entitled “Analisis Penciptaan Green Jobs (Pekerjaan Hijau) di

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1 “Pemerintah Sambut Investasi Asing Ke Sektor Ekonomi Hijau,” Kementerian Investasi/BKPM.


Indonesia Menggunakan Model Skenario Investasi Hijau,” the focus of the study was on the analysis of green jobs creation with the green investment scenario model as the scenario model used.  

Prevention of environmental damage from the smallest scope to the most extensive range has become necessary because the damage is due to human processing. Man must have a sense of responsibility to improve it.

The research aims to assess the development of green investment in Indonesia and the green investment policies in the regulations of the Indonesian government amid current economic developments, as well as what kind of green investment concept should be applied in Indonesia. Green investment research is essential, considering that the government continues to strive to increase investment in both conventional and non-conventional sectors.

The government needs to review what kind of green investment should be implemented in Indonesia as well as policies that are more suitable for green investment in Indonesia so that Indonesia can adequately implement these policies. Therefore, the author formulated several points explained in this study: 1) How is the development of green investment in Indonesia? 2) How are Green investment policies in the Regulation of the Indonesian Government?

METHOD

This research uses the normative juridical method. Normative Juridical research is a research method that examines law based on an internal perspective by making legal norms the object of its research. The approach used is the statutory approach. The legal materials used in this study are primary and secondary legal materials. In this study, the primary legal materials are Pancasila, the laws related to green investment, such as the 1945 Constitution of the Republic of Indonesia, Law Number 25 of 2007, Law Number 16 of 2016, and Presidential Regulation of the Republic of Indonesia Number 16 of 2012. Secondary Legal materials are closely related to primary legal materials and can help understand primary legal materials. The Secondary legal materials used in this study are the results of scientific work, journals, books, etc.

ANALYSIS AND DISCUSSION

The Development of Green Investment in Indonesia

Various studies related to green investment, such as the study by Dongyang and Qunxi, entitled “Renewable energy policy, green investment, and sustainability of energy firms.” The study focuses on the effect of renewable energy policies on companies’ sustainability, whether companies “green-wash” their investment or not to reap the benefit of new energy policies and the influence of company characteristics and the market environment in implementing new energy policies.

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Edmund and Lucy also wrote research titled “Policy Insight from Renewable Energy, Foreign Direct Investment (FDI), and Urbanization Towards Climate Goal: Insight from Indonesia.” The study aims to test empirical evidence of the influence of incoming FDI flows and renewable energy on Indonesia’s environmental quality using a particular approach. While in this study, the author focuses more on the development and policy of green investment in Indonesia and on concepts that can be used as a reference in making green investment policies.

In Indonesia, green investment development is slower than non-green investment. One of the factors is the wealth of Indonesia’s natural resources, which attracts multinational companies to enter Indonesia. The initial capital, namely economies of scale supported by the wealth of natural resources, is to put Indonesia on the global investment radar. So, green investment has not been able to compete with non-green investment. Although, non-green investments can cause environmental damage.

Indonesia’s third position in Investment shows that Investment still relies on Mining as a business land in the non-renewable energy sector. The amount of Investment from renewable energy in 2020 reached USD 1.4 billion, or to the Ministry of Energy and Mineral Resources, Rienstra is only 60% of the initial investment target of USD 2.3 billion. The main drivers of Investment are geothermal and other renewable energy. Investment in alternative renewables and energy conservation is close to meeting the target, but Investment in bioenergy is far behind, with less than 1% of the target achieved.

Industrial pollution is one factor in environmental damage. Several factors cause industrial pollution, such as 1) lack of policies related to industrial control; 2) unplanned well growth of the industry; 3) the industry still uses the old technology; 4) the large number of small industries that cause pollution; 5) ineffective waste disposal from the industry; 6) the occurrence of resources leakage in the world environment. The factors that cause environmental damage due to economic activity are not only what has been described above, but there are still many other factors that affect it.

Environmental damage due to economic activity requires renewal in several things to improve the ecological damage. One way is to carry out a green movement from all parts of Indonesia, including the government, non-governmental organizations, socio-political groups, and other societal components concerned with the environment, the planet,
Every level of Indonesian society must support the development of the green movement as one way to improve Indonesia’s green economy.

Twin things want to achieve in the green economy concept. One, the green economy attempts to establish an idea that does not only consider macroeconomic issues, mainly green Investment. However, it also emphasizes the role of green Investment in goods and services, as well as an increase in employment in a green job. Two, the green economy attempts to establish recommendations for pro-poor green Investment. In other words, green Investment can assist in alleviating poverty.

Many countries are active in implementing green Investment in their countries. The author thinks that implementing green Investment in various countries is based on the awareness that the environment is not in a good state. One of the factors is excessive economic production. The breadth of overage of what green Investment wants to achieve provides hope for improvement in various aspects. The primary goal of green Investment is to encourage policymakers to encourage all levels of government and the private sector to suppose the green investment escalation.

Green Investment focuses on the investment prospect’s or company’s dedication to natural resource conservation, the development and discovery of new and renewable energy (NRE), the implementation of water projects and clean air, and environmentally friendly investment operation. Globally, a green investment practice widespread in several countries is based on the environmental, social, and governance of ESG for short. The purpose of ESG is to build a sustainable business by not damaging the environment.

When we consider green Investment, environmental protection, and economic development, the three elements have an enticing link. Look at the picture below.

Figure 1. the Relation between green Investment, environmental protection, and economic development

Source: own graphic

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15 Murniningtyas, Langkah Menuju Ekonomi Hijau Sintesa Dan Memulainya.


Green Investment is used to protect the environment, environmental protection is used to develop the economy, and economic development can be carried out using green Investment, and vice versa.

There is a fundamental difference between green investment and non-green Investment. In non-green Investment, the purpose of investors is only to get profit. In contrast, green Investment is not only used to obtain returns but is also expected to have a sustainable positive influence on society and the environment.

In Indonesia, non-green Investment is still carried out in large quantities, although the government is committed to green Investment. The green growth program seeks to realize conditions conducive to green Investment and capital increase. These programs include 1) energy; 2) sustainable landscapes; 3) Special economic zones; 4) The green clime fund (GCP) preparation program.

The Ministry of Industry of The Republic of Indonesia stated that green investment must own several aspects. 1) The input materials are environmentally friendly; 2) the input material has a low intensity; 3) applying 4R, namely, reduction, reuse, recycle, and recovery; 4) energy with low intensity; 5) human resources have a level of ability in their fields and have environmental knowledge, especially appropriate for resources; 6) using a lower volume of water and following ecological quality standards; 7) low carbon technology; 8) using alternative energy. Appropriately integrating competent institutions and leaders with promises plans, and policies that support excellent Investment in a good project can bring about the improvements Indonesia requires, namely a cleaner and more prosperous future.

Based on data on global sustainable investment assets in 2020 published by the Global Sustainable Investment Review 2020 as follows:

**Figure 2. Sustainable Investment Assets.**

![Sustainable Investment Assets](image)

**Source:** Global Sustainable Investment Review 2020

The diagram above shows that the countries with the most sustainable investment assets are held by developed countries, such as Japan, Australia, Canada, The United States, and Europe, as well as many more. In contrast, Indonesia’s green investment asset is still low compared to other countries. Investment in emerging markets and developing economies (EMDEs) differ from existing investments in developed countries and China because it will remain below the level before the crisis in 2021. The difference in investment level is mainly due to twin public health and

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19 Ibid.
the period of the economic situation in that countries being more prolonged.  

The investment IDR 36,595.6 - 37,444.6 trillions is needed from 2020 to 2024 to get the target of economic improvement, an average of 5.4 – 6.0 per year. Based on these needs, the government and State-owned corporations will contribute 11.6 – 13.8 and 7.6 – 7.9 %, respectively, and the community of private parties will then fulfill the rest. Indonesia needs an investment of IDR 70,000 trillion until 2060 to realize the net-zero emission target by 2060. Compared with Indonesia’s GDP in 2020, this amount was five-time the DGP in 2020. Based on these data, we can say that to build green Investment. The government must prepare such a large fund.

Updating production machines with environmentally friendly technology is one that caused enormous money invested in the green industry. It necessitates government incentives for the industry to continue to expand and flourish in Indonesia. It is feared that the green industry will lose in competition, especially in the domestic market, if it does not have incentive support. Indonesia Realized a budget for economic recovery in April 2020 that is not centred on green Investment, with approximately IDR 100 trillion from about IDR 327 trillion to be funnelled to state-owned firms, Pertamina (oil), and PLN (electricity). The government committed to spending USD 6.49 billion to promote the fossil fuel energy sector in mid-July 2020. In contrast, the budget for renewable energy through a policy established in early 2020 was only around USD 237.17 million. The budget spent to support the increase in green Investment is not as large as the budget spent on non-green Investment.

Green investment policies have a positive influence on environmental sustainability. Still, changes to the additional capital requested for sustainable investment are unlikely to encourage a company to abandon an unsustainable or to allow the company to grow in the form of sustainable business that until now has not been adequate. Investors have a goal to get benefits in carrying out investment activities. If the green Investment does not provide benefits for the running of the business, then the green Investment cannot achieve the expected form of Investment. The government needs to open up and prioritize greening so that investors will believe in investing in green Investment.

The Green Investment Policy in the Regulation of the Indonesian Government

In green Investment, investors are less interested in investing in the renewable energy sector cause they consider that current approaches in Indonesia are not yet conducive. Such as the lack of developers’ intensiveness and policies that change dynamically.

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Currently, the primary triggers of problems in many sectors are weak and ineffective rules, including the government’s reluctance to promote sustainable energy sources, emphasis on equal ability rather than targeted subsidies, and over-investment against demand. Strengthening laws by carrying out legal and institutional reforms can improve the ability of all parts of the trilemma, with cross-sectoral impacts.31

There are various ways that the government can fight for green Investment. The government and policymakers can use a formation when preparing a public policy to monitor and control a company’s social and environmental responsibility.32 Efforts to mainstream the green economy must be supplemented by a comprehensive green progress strategy that integrates aims and activities into rules, incentives, development planning, and finance. The primary task to measure green growth investment success is to choose a suitable and viable policy, utilize relevant instruments to design an investment policy, and execute proper supervisory mechanisms.33

The Policy intervention aims to adjust the condition and improve the investment conditions for the project developer. Some measures in the intervention can be general, such as changing the price of energy and subsidy systems for renewable energy projects, or technical policy, such as a more orderly layout and better connection procedures for land and forest use projects.34

Close cooperation between the government, academia, the business world, and the community is needed to fully benefit from the progress and opportunities domestically and abroad in green Investment. Indonesia can reach that benefit through the government’s solid leadership and government’s political commitment.35

The green economic demands, including Investment, come from internal and external parties. Such as the State in Indonesia ratifying the UNFCC Paris Agreement into Law Number 16 of 2016. The NDC set by Indonesia needs to be determined regularly. Indonesia’s nationally determined contribution or NDC includes the mitigation and adaption section. Indonesia’s efforts in the first-period target will reduce emissions by 29%. However, if a corporation is doing business as usual in 2030 will minimize emissions to 41.

Based on NDC, some of the things that the government wants to achieve are the energy sector (including those related to Investment), forestry, waste, industrial processes, product use, and agriculture. In the context of green Investment, it is necessary to pay attention to the points described above as stated in


Law/16/2016. The demand for implementing green Investment internally, namely when investment activities in Indonesia impact the environment, the government must be responsible for the damage by implementing green Investment.

In the 1945 Constitution, article 33 paragraph 4 of the national economic democracy by adhering to several principles, namely 1) the principle of togetherness; 2) equitable efficiency; 3) continued; 4) environmentally sound; 5) independence; 6) then by maintaining the balance of progress and unity of the national economy. The investment law Article 3 paragraph h states that in organizing Investment based on environmentally sound principles.

The Investment Law Number 25 of 2007 (Law/25/2007), there are discussions on the environment, especially in Article 3 paragraph (1) letter h, Article 12 paragraph (3), Article 1 letter b, Article 16 letter d, Article 17, Article 18 paragraph (3) letter g, Article 24 letter b, and Article 40 paragraph (7) letter a. Investment Law Number 25 of 2007 has changed into Law Number 11 of 2020 concerning Job Creation. However, the law was ruled conditionally constitutional by the Constitutional Court. Conditionally unconstitutional decisions because the job creation law is considered formally flawed.

In the Presidential Regulation of the Republic of Indonesia, Number 16 of 2012 concerning the General Plan for Investment (Law/16/12), Article 2 paragraph d part 4 explains that a policy direction of Investment is an environmentally sound or green investment. The government needs to conduct a deeper study of investment regulations that comply with environmental insights as mandated by the law.

Being environmentally in the investment policy, namely a) synergizing with a policy and program regarding environmental development; b) expansion of priority sectors and development of environmentally friendly technologies; c) growing a green economy; d) facility assistance, convenience, and or incentive assistance in Investment; e) as well as the development of the territory. Based on the rules in the constitution and Investment, it is clear that the policy investment direction and implementation must be in line with concern for the environment.

Legal instruments in green Investment are expected to improve welfare vastly and to effort the protection implementation and the management of an environment as a mandate of Law Number 32 of 2009 on environmental protection and management and also to minimize ecology risk or damage because of non-sustainable development.

Concepts in Green Economy

Policymakers can use several concepts of the green economy in forming policies on green Investment in Indonesia, such as degrowth and ecological modernization, which will discuss in this research below.

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Degrowth Concept

Degrowth is based on considerations of ecological damage and the social dimension caused by economic growth with a commonly used measure, namely Gross Domestic Product (GDP). GDP calculates production based on monetary units regardless of ecological damage and social dimension. If the state is committed to implementing a green investment policy following the Degrowth concept, GDP cannot be the only Foundation in determining economic development with the idea of green growth.

Degrowth is basically to reduce production and consumption activities and energy diets. In the 2050 degrowth concept, the average per capita energy consumption between the northern and southern hemispheres should be 30 gigajoules per year. However, people in the two territories have an energy consumption disparity. According to 2017 data, the affluent population’s per capita energy consumption is more than the developing population’s consumption.

Ecological Modernization

Joseph Huber, a sociologist of German origin, is considered the founder of the modernization of ecology concept. Ecological modernization transformation can group as follows: 1) Changes to the role of science and technology. Technology roles are assessed not only because it raises environmental problems but also because of their substantial role and potential rates in curing and preventing environmental problems. 2) Increasing the interest in market dynamics and economic participants. 3) the role of the transforming nation-state; 4) changes to a position, role, and social movement ideology; 5) changes the implementation of the discursive, and a new ideology arises.

According to Janicke (in Roberto Orsi, 2021: page 2), Ecology Modernization in the social sciences is interdisciplinary to the relationship between society and the natural environment, based on the idea that industrial civilization can and should accept. The ecological crisis experienced by modern industrialization resulted from using the same tools nurtured from the beginning of industrial modernization: more rationalization, scientific-technological innovation, automation, and economic growth.

According to the author, In Indonesia’s green investment context, degrowth and ecological modernization cannot be fully used in Indonesia. On degrowth, a significant reduction in production or economic activity that has a bad influence on the environment in the Indonesian state is still tough to do considering the enormous contribution of non-renewable natural resources investment in Indonesia.

As a developing country, Indonesia’s quality level of technology modernization cannot be matched with a developed country’s

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40 Ahmad Nurholis, “Menimbang Konsep Degrowth Dalam Mengatasi Perubahan Iklim Di Indonesia” (Kementerian Keuangan Republik Indonesia, 2021).

41 “Diet Energi Untuk Mitigasi Krisis Iklim,” Forest Digest.


43 Ibid.

44 Ibid.

45 Roberto Orsi, “Ecological Modernisation and Its Discontents Project Associate Professor, Graduate School of Public Policy, The University of Tokyo,” 2021, 2.
technology. The government has to spend a lot of capital to switch from old technology to implement equitable technology distribution in Indonesia’s green Investment.

Indonesia must be able to explore what kind of green economy concept is appropriate to be stated in the green investment policy. As a middle ground, Indonesia must be committed to reducing production and not expending massively on non-renewable natural resources investment. While lowering and restricting non-green Investment, the government is willing to invest in new environmentally friendly technologies. Such efforts require long-term committees from the government and other actors involved.

**Theory of Policy Implementation**

Government policies are one of the essential keys to the sustainability of green Investment in Indonesia. The author borrows a view put forward by George C. Edwards III, namely that in implementing a policy, several variables affect it, including 1) Communication variables, 2) Resource variables, 3) Disposition variables, 4) and Bureaucratic Structure Variables.

Communication variables: the first condition for effective policy implementation is that the party implementing the decision must understand what they should do. Before Policy choices and implementation be implemented, They must be communicated to the appropriate Personnel. The communication made must be accurate and understood in detail by implementers. At this point, communication between policymakers and implementers of green Investment is possibly going well.

Resource variables: Orders for implementation can be transmitted accurately, clearly, and consistently, but the performance will likely be ineffective if there is a shortage of resources needed to implement a policy. The government must pay attention to the adequacy of the resources used to sustain the green Investment.

Disposition: Disposition is a characteristic of honesty, commitment, and democracy. An implementer with a good disposition will be able to implement policies as desired by the policymakers. If the implementer is disorderly, a policy tends to be challenging to implement according to the wishes of policymakers.

Bureaucratic structure: the policy implementation may still receive obstacles from the organizational structure in which they perform services. The characteristics that stand out in the bureaucracy are standard operating procedures or SOPs and fragmentation.

Green Investment in Indonesia still needs attention from the government and other actors involved from the government, private parties, investors, and other parties interested in green Investment. The actor involved must be committed to making and implementing a green investment policy according to their respective roles so that green Investment can carry out continuously and consistently.

The Government has various ways to improve Indonesia’s green investment

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48 Edward III, “*Implementing Public Policy*.”

49 Subarsono, *Analisis Kebijakan Publik: Konsep, Teori, Dan Aplikasi*.

50 Edward III, “*Implementing Public Policy*.”
policy to align with the environment. In the future, it is expected that Indonesia will rely more on Investment in environmentally friendly sectors than in industries that are not environmentally friendly.

CONCLUSION

The development of green investment in Indonesia is still slow compared to non-green investment. The amount of investment in the renewable energy sector is smaller than in non-renewable investment. Indonesia is making various efforts to increase green investment through government programs and regulations. Government-created programs such as energy programs, sustainable landscapes, special economic zones, and a green climate fund.

Inconsistent policies are one of the reasons investors are less interested in investing in green investments. Several basics that can be used as a reference for green investment are internationally UNFCC into Law Number 16 of 2016. Nationally, Pancasila, the 1945 Constitution of the Republic of Indonesia, Law Number 25 of 2007 on investment as amended by Law Number 11 of 2020, and the Presidential Regulation of the Republic of Indonesia Number 16 of 2012, concerning the General Plan for Investment. The government can use several concepts to improve green investment policies, such as degrowth and modernization ecology, and can use implementation policy theory as a reference in making good policies.

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