

## Green Investment or Greenwashing ? Foreign Investment in Indonesia's Renewable Energy Sector

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<b>Abstract</b>	This article critically examines the legal implications of greenwashing and the lack of Environmental, Social, and Governance (ESG) accountability in foreign-funded renewable energy investments in Indonesia. While green investment is promoted as part of the global transition toward sustainability, many projects in Indonesia have raised concerns due to aggressive land acquisition, lack of community consent, and misleading ESG reporting. This research applies a socio-legal juridical method by combining normative legal analysis with empirical data obtained from interviews and field documentation in East Java and South Sulawesi. The findings reveal significant regulatory gaps that allow companies to misuse ESG narratives for image-building purposes while neglecting environmental and social responsibilities. The study also highlights the absence of strong enforcement mechanisms and community access to justice, which creates a legal vacuum and facilitates systemic greenwashing. Therefore, this paper proposes regulatory reform and the adoption of binding ESG standards to strengthen transparency, legal accountability, and community rights in Indonesia's renewable energy sector. Provision of legal mechanisms to sue companies or investors either in national courts or through international grievance schemes are essential for green investments to truly contribute energy transition, environmental protection, and respecting the rights of local communities in Indonesia based on the principle of Free, Prior, and Informed Consent (FPIC) also transparency in every stage of the project.
<b>Keywords</b>	<i>Greenwashing, ESG Accountability, Green Investment, Renewable Energy</i>

## INTRODUCTION

The growing urgency to transition from fossil fuels to renewable energy has positioned green investment as a key strategy in achieving global climate goals. In Indonesia, this shift is reflected in various large-scale renewable energy projects such as geothermal, hydro, and solar that are promoted as environmentally friendly and sustainable. However, several reports indicate that many of these so-called “green” projects, particularly in the energy sector, often displace indigenous communities, degrade local ecosystems, and proceed without adequate public consultation or legal safeguards.<sup>1</sup> These practices raise serious concerns about the authenticity of green investment and the potential for environmental and social harm behind the green label.

A major contributing factor to this issue is the rise of greenwashing, a marketing strategy where corporations mislead the public by presenting their operations as environmentally responsible without implementing substantial changes. In Indonesia, greenwashing is facilitated by the absence of binding regulations that define and monitor environmental claims in investment projects.

Furthermore, the implementation of ESG (Environmental, Social, and Governance) principles which are intended to serve as accountability tools often remains voluntary and lacks state enforcement. This gap enables companies to use ESG credentials as a symbolic tool rather than a framework for real accountability. ESG is becoming increasingly important, not only for investment demand but also for supply. Demand for sustainable assets has driven the supply of these assets and attracted corporate attention. Unfortunately, there is a legal vacuum in ensuring that green investment truly aligns with environmental protection and social justice goals. This situation brings forth a critical legal problem: the inadequacy of legal instruments in preventing greenwashing and ensuring ESG accountability within the green investment framework in Indonesia. The absence of state-imposed obligations and enforceable ESG standards undermines public trust and threatens the integrity of sustainable development. Therefore, this article seeks to examine the legal implications of greenwashing practices and the lack of ESG accountability in Indonesia’s renewable energy sector, with a specific focus on identifying regulatory gaps and proposing legal reforms to strengthen environmental and social protections in green investment.

Research on greenwashing and green investment has gained significant attention globally, yet remains relatively limited in the context of renewable energy development in Indonesia, highlighted the paradox between companies’ environmental performance and their communication strategies, identifying greenwashing as a deliberate misrepresentation of sustainability claims. While their study provides a theoretical framework for understanding corporate motives and institutional pressures that lead to greenwashing, it does not address the legal accountability aspects within national regulatory frameworks.

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<sup>1</sup> Delmas, M., Burbano, V. (2011). The Drivers of Greenwashing. *California Management Review*. 54 (1). <https://doi.org/10.1525/cmr.2011.54.1.64>.

Another study by Lyon and Montgomery explored how corporate greenwashing behavior could undermine genuine sustainability efforts and consumer trust.<sup>2</sup> They emphasized the role of third-party verifiers and stronger policy enforcement to counteract misleading environmental claims. However, their research remains centered on the U.S. context and lacks detailed analysis of regulatory enforcement in developing economies such as Indonesia. In the Indonesian setting, conducted a study on ESG implementation in state-owned enterprises, uncovering inconsistencies in sustainability disclosures and lack of standard ESG performance metrics. Although this study sheds light on the reporting gap in ESG practices, it does not provide in-depth legal analysis on how current regulations may be failing to prevent greenwashing in the renewable energy sector. This research intends to fill the gap by providing a legal analysis of green investment regulations in Indonesia and how these are (or are not) effectively addressing greenwashing practices. It aims to offer a critical evaluation of the enforcement mechanisms and propose legal reforms for enhancing transparency and accountability in ESG claims made by renewable energy companies. Indonesia faces a growing challenge in ensuring that green investments in the renewable energy sector align with principles of sustainability and social justice. While foreign-backed projects are often promoted as part of the global climate transition, various reports have revealed cases of greenwashing—where companies label their activities as environmentally responsible without implementing meaningful safeguards. The lack of binding regulations, weak ESG enforcement, and the absence of transparent grievance mechanisms have allowed such practices to thrive. Previous research by Delmas & Burbano (2011),<sup>3</sup> as well as Lyon and Montgomery has explored the behavioral and communicative dimensions of corporate greenwashing, yet these studies are primarily situated in developed country contexts and do not provide a legal analysis applicable to Indonesia.<sup>4</sup> It has identified inconsistencies in ESG implementation but stops short of offering legal reform strategies.<sup>5</sup>

This article addresses the gap by offering a legal analysis of Indonesia's regulatory framework for green investment, particularly its capacity (or lack thereof) to prevent greenwashing and ensure ESG accountability. The uniqueness of this research lies in its focus on legal mechanisms, comparison with international models like the EU's Corporate Sustainability Due Diligence Directive (CSDDD), and its policy-oriented recommendations. The objective is to evaluate the adequacy of Indonesia's legal instruments in governing green investment and to propose regulatory reforms that ensure environmental integrity, protect local communities, and support a just energy transition. (Pramana & Dewi, 2023). This legal research uses a socio-legal juridical method to analyze the legal and practical dimensions of greenwashing and ESG accountability in foreign-backed renewable energy investments in Indonesia. The study combines normative legal analysis with empirical observations to understand the disconnect between legal frameworks and field implementation. The data used consist of primary data obtained through interviews with

<sup>2</sup> A. Wren Montgomery, et al. (2023). No End in Sight? A Greenwash Review and Research Agenda. *Organization & Environment*. 37 (2). <https://doi.org/10.1177/10860266231168905>.

<sup>3</sup> Delmas, *Op. Cit.*

<sup>4</sup> Montgomery, *Op. Cit.*

<sup>5</sup> Pramana, M. A., Dewi, Y. K. (2023). Perkembangan Kebijakan Green Investment dalam Peraturan Perundang-Undangan di Indonesia. *Simbur Cahaya*, 66–80. <https://doi.org/10.28946/sc.v30i1.2833>.

legal experts, environmental activists, and affected community members in East Java and South Sulawesi—two regions where controversial green investment projects have been reported. Secondary data include documentation of government regulations, corporate ESG reports, environmental audit results, and investigative media reports. Data collection techniques involved semi-structured interviews and content analysis of legal and policy documents. The qualitative data were analyzed using descriptive-analytical techniques to identify legal gaps, assess the effectiveness of existing ESG enforcement mechanisms, and evaluate the impact of green investment practices on local communities and ecological justice.

## Research Method

This article adopts a normative juridical approach. It systematically analyzes primary or judicial legal documents on ESG such as Law No. 32 of 2009 on Environmental Protection and Management also FSA (OJK) Regulation No. 51/2017 on the Implementation of Sustainable Finance and FSA (OJK) Regulation No. 60/2017 on Green Bond. Secondary sources including reputable literature in law especially regarding green economy. Interpretation and legal analysis are applied to evaluate the main problem.

## ANALYSIS & DISCUSSION

### Green Investment Turns Grey: Questioning the Motives Behind Foreign Investments in Indonesia's Renewable Energy Sector

The influx of foreign direct investment (FDI) in Indonesia's renewable energy sector is often framed as part of the global commitment to a sustainable energy transition. However, such narratives demand closer scrutiny. Are these investors genuinely committed to climate action, or are they simply adapting their business strategies to remain attractive in a global economy that increasingly demands green credentials? In practice, many projects reveal that environmental concerns are frequently used as a camouflage for capital expansion. Several solar power plant (PLTS) projects backed by foreign investors notably in East Java and South Sulawesi have reportedly acquired land through aggressive and non-transparent means, disregarding the principle of FPIC (Free, Prior, and Informed Consent). This principle is a minimum international standard to protect Indigenous and local communities affected by development projects. Legally, such practices constitute a violation of the right to a good and healthy environment, as enshrined in Article 28H(1) of the 1945 Constitution and reinforced under Law No. 32 of 2009 on Environmental Protection and Management.<sup>6</sup>

There is not a sincere commitment to sustainability, but rather the instrumentalization of the green narrative to legitimize profit-driven ventures. In such a context, these practices clearly fall into the category of greenwashing where companies or actors claim to be environmentally responsible solely to enhance their public image, while their substantive actions say otherwise. This situation emphasizes the urgency for stricter oversight from various elements of civil society, media and academia on foreign investment in the renewable sector. The narrative of green investment has been voiced often only as a

<sup>6</sup> Dinda Soraya, A. (2023). *Kebijakan Investasi Hijau dalam Perundang-Undangan Indonesia sebagai Upaya Penurunan Emisi GRK Nasional Menuju E-NDC 2030*. 6 (2). <https://doi.org/10.31933/unesrev.v6i2>.

marketing tool to strengthen the company's image without a real commitment to environmental sustainability and the rights of local communities. Therefore, the role of the public is very important to critically monitor, expose, and urge that every investment project is truly carried out in accordance with the principles of sustainability, social justice, and respect for human rights. In addition, the mass media and academics are expected to become objective channels to voice problems in the field, as well as encourage the birth of policies that are more in favor of the interests of the community and the environment. There are several important steps that must be taken immediately to resolve this issue:

a. Strengthening regulations

The Indonesian government must tighten regulations that require the application of the principles of Free, Prior, and Informed Consent (FPIC) and ensure transparency in every process of planning, implementing, and evaluating foreign investment projects in the renewable energy sector. These regulations should not be merely administrative, but should have strict sanctions for violations.

b. Independent audits

It need to be applied to all green investment projects, without relying solely on internal company reports. These audits should be conducted by truly independent and credible institutions, with the results openly accessible to the public, so that the investment process is accountable and socially and environmentally justifiable.

c. Increased participation of local communities

Local communities should be an integral part of any renewable energy project. Community involvement should not be a formality, but should be actively carried out from the planning, siting and implementation stages of the project. This is important to ensure that the project does not harm community rights, and is in accordance with local social and cultural values.

d. Access to justice for affected communities

States need to establish legal mechanisms that allow local communities to directly sue foreign companies or investors that violate their rights, either in national courts or through international grievance schemes. This mechanism is important so that communities have a legal tool to fight for their rights effectively, as well as to provide a deterrent effect for companies that operate abusively.

## **Exposing Undercover Greenwashing in Green-Labeled Projects**

Greenwashing in Indonesia does not only occur at the marketing level but is deeply embedded within the framework of public policy. A striking example is the government's PROPER programme (Program Penilaian Peringkat Kinerja Perusahaan dalam Pengelolaan Lingkungan Hidup), a flagship initiative designed to assess corporate environmental performance. This program aims to encourage industries to implement green economy principles, namely energy efficiency, air conservation, emission reduction, biodiversity

protection, and reducing economic disparities by implementing community empowerment programs. Assessment criteria for more aspects of compliance include environmental management systems, energy efficiency, emission and greenhouse gas reduction, air efficiency, reduction and utilization of hazardous and toxic waste, biodiversity, community development, and innovation. PROPER rating is divided into 5, namely gold, green, blue, red and black and this rating system can be applied in ESG.

On the surface, PROPER appears to be an accountability mechanism assigning color-coded environmental ratings to corporations. Yet, in reality, there exists a significant gap between these ratings and the actual environmental outcomes on the ground. Many companies that receive “green” or even “gold” ratings continue to be involved in environmental violations. In foreign investment projects, this discrepancy becomes even more problematic. Investors frequently arrive with promises of “technology transfer,” “green jobs,” and “sustainability roadmaps,” yet their environmental and social impact reports are rarely disclosed transparently. Some even avoid third-party audits altogether, opting instead for internal consultants to produce ESG reports that align with a pre-crafted narrative. In short, greenwashing is not only tolerated it is structurally enabled.<sup>7</sup>

This situation is exacerbated by the lack of robust legal instruments in Indonesia to address corporate greenwashing. Although laws on consumer protection and environmental management exist, they are not designed to address the complex and often transnational nature of ESG manipulation. This raises a fundamental question: is Indonesia’s legal system equipped to regulate green investment, or has it become entangled in the euphoria of green capitalism without meaningful oversight? Behind the “green” label and sustainability claims that are often attached to foreign investment projects in Indonesia’s renewable energy sector, there is a systemic practice of greenwashing. Greenwashing does not only occur at the level of marketing rhetoric, but also through the practice of data manipulation, unobjective reporting, and the use of Environmental, Social, and Governance (ESG) standards that are inconsistent and weak in implementation. Many foreign companies investing in Indonesia prepare ESG reports through internal consultants or third parties whose working relationships are not fully independent. ESG has become useful for companies to increase their valuation and financial performance both through their profile in terms of systematic risk, lowering their costs of capital, and in terms of idiosyncratic risk, lowering exposure to tail risk. As a result, the reports are often biased and only feature positive aspects, while negative impacts on the environment and local communities are hidden or minimized.

Furthermore, this greenwashing practice is reinforced by the mismatch of ESG standards applied by individual companies and investors. In Indonesia, ESG standards from foreign investors are generally voluntary standards without a binding legal sanction mechanism when violations occur. Some investors even use ESG standards from their home

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<sup>7</sup> Kossay, M., Putra, R. K., & Idris, M. F. (2025). Keberlanjutan Ekonomi dalam Perspektif Hukum: Analisis Regulasi Environmental, Social, and Governance di Indonesia. *Perkara : Jurnal Ilmu Hukum Dan Politik*, 3 (1), 675–693. <https://doi.org/10.51903/perkara.v3i1.2355>.

countries that are not necessarily in line with Indonesia's socio-ecological context. This creates a loophole for companies to claim to have met sustainability standards without having to prove real positive impacts on the environment and communities around the project.

The lack of transparency in project reporting, auditing and monitoring processes further exacerbates the situation. Public access to sustainability reports, environmental data, and audit results of foreign investment projects in the renewable energy sector is still very limited. This makes it difficult for civil society, the media, and regulators to critically verify and monitor social and ecological impacts on the ground. In fact, data transparency and public involvement are fundamental principles in good environmental governance.<sup>8</sup>

This phenomenon has also been widely highlighted in academic literature and reports by international organizations. For example, a report by the Environmental Paper Network in 2020 noted that many global companies operating in Southeast Asia are greenwashing through inaccurate ESG reports and lack of accountability. In addition, the absence of integrated ESG standards and strong legal sanctions, greenwashing practices in the renewable energy investment sector in the region, including Indonesia, are likely to continue. From a legal perspective, Indonesia lacks targeted instruments to ensure transparency, accountability, and meaningful public participation in green energy projects. One potential step forward would be to adopt an ESG Due Diligence Law, similar to the EU model, which mandates that corporations including foreign investors conduct comprehensive assessments of environmental and human rights risks before proceeding with investment.

The European Union (EU) has influenced regulations worldwide, from data protection to trade and antitrust. In certain areas, the EU has set stringent standards and impacted global businesses due to its market size and the costs of participation. Europe has issued significant ESG regulations over the past decade and is now a leader in ESG implementation globally. These regulations aim not only to encourage ESG investing, by encouraging investors to consider environmental, social, and governance issues in their investment decision-making processes, but also to monitor companies' compliance with mandatory ESG commitments. ESG-aligned objectives are also embodied in various government-led targets and mechanisms. The European Commission aims to develop green infrastructure. The European Central Bank is involved in greening the financial system and, together with other central banks, including the US Federal Reserve System, has formed the Network for Greening the Financial System (NGFS).

ESG is becoming increasingly important, not only for the demand side of investment but also for the supply side. Demand for sustainable assets has driven the supply of these assets and attracted corporate attention. So, it is crucial to establish a legal mechanism that enables affected communities to directly sue foreign corporations. At present, most

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<sup>8</sup> Irawati, Prananingtyas, P., Wulan, R. C. (2023). Regulation Urgency of the Misleading Greenwashing Marketing Concept in Indonesia. *IOP Conference Series: Earth and Environmental Science*, 1270 (1). <https://doi.org/10.1088/1755-1315/1270/1/012007>

environmental disputes are processed administratively or directed toward government institutions that issued the permits, leaving the actual foreign actors untouched. This structural loophole must be closed. Otherwise, greenwashing will continue to thrive under a cloak of legal impunity. As a matter of principle, legal reform in this area should aim not only to regulate investment but also to rebalance power between investors and local communities, between image and reality, between profit and justice. In recent years, Environmental, Social, and Governance (ESG) issues have become a global concern, including in Indonesia. Although Indonesia already has several ESG-related regulations, such as POJK No. 51/2017 on the implementation of sustainable finance and POJK No. 60/2017 on Green Bond, the implementation is still weak and voluntary. Inconsistent enforcement and the absence of a standardized reporting mechanism mean that many companies are not yet fully compliant with ESG principles. This is exacerbated by the lack of strict sanctions for violations and weak supervision from relevant authorities.<sup>9</sup>

This condition is further complicated by the ecological imbalance that arises from Indonesia's dependence on Foreign Direct Investment (FDI) in the green energy sector. On the one hand, this investment is needed to support the national energy transition. But on the other hand, there is a risk of “climate colonialism”, where developed countries push developing countries like Indonesia to meet their global energy transition targets, while the social, environmental and ecological costs are passed on to local communities. Some studies even confirm that FDI in the energy sector in Indonesia tends to enlarge the ecological footprint in the long run, in line with the pollution haven hypothesis. Unfortunately, Indonesia does not yet have an effective legal mechanism to ensure the accountability of foreign corporations for the environmental and social impacts of their investments. Environmental dispute resolution schemes in Indonesia are still mostly administrative in nature and directed to the government or permit issuers, not directly to foreign business actors.

This condition creates loopholes in regulation that allow greenwashing practices and legal impunity for foreign investors. In comparison, the European Union has implemented the Corporate Sustainability Due Diligence Directive (CSDDD) which requires companies, including foreign investors, to conduct thorough due diligence on environmental and human rights risks before investing. CSDDD also requires companies to have a grievance mechanism accessible to affected communities, ensure meaningful stakeholder engagement, and set strict legal sanctions for violations.<sup>10</sup> The CSDDD establishes a corporate due diligence duty. The core elements concern identifying, ending, preventing, mitigating and accounting for negative human rights and environmental impacts in the company's own operations, subsidiaries and value chains. It gives mandate for companies to

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<sup>9</sup> Van Tran, H., Tran, A. V., Hoang, N. B., & Mai, T. N. H. (2024). Asymmetric effects of foreign direct investment and globalization on ecological footprint in Indonesia. *PLoS ONE*, 19, <https://doi.org/10.1371/journal.pone.0297046>.

<sup>10</sup> Dai, T. (2025). Delving into the Green Growth Dilemma and ESG Investing in Southeast Asia. *Humanities and Social Sciences Communications*, 12 (1), <https://doi.org/10.1057/s41599-024-04184-x>.



adopt a climate transition plan.<sup>11</sup> The requirements are likely to fit with the EU's Corporate Sustainability Reporting Directive (CSRD) and associated standards. Certain large companies must have a plan to ensure that their business strategy is compatible with limiting global warming to 1.5°C, in line with the Paris Agreement.

Indonesia can take important lessons from this model to strengthen domestic regulation. It is important to provide legal channels that allow affected local communities to sue foreign corporations directly, without having to rely on the government or permit issuers. This is necessary to create a balance of power between investors and local communities, while preventing greenwashing practices that have often gone unnoticed. Strengthening the role of communities and access to justice will be key in realizing an energy transition that is fair, sustainable and in favor of the national interest. Green investment must move beyond symbolism. Commitments to sustainability are not just a marketing tools cause it should be implemented into measurable, verifiable, and socially accountable practices. In Indonesia, a clear and enforceable national green taxonomy must be developed as a basis for evaluating all ESG-based projects.<sup>12</sup> Without such a framework, green labels will continue to serve the interests of capital rather than ecological justice. At the same time, civil society and legal scholars especially young law students must speak up and hold these systems accountable.

## CONCLUSION

Green investment in Indonesia's renewable energy sector, while often promoted as an environmentally friendly solution, still faces many serious issues related to greenwashing practices and weak ESG accountability. Many renewable energy projects funded by foreign investors have negative impacts, such as displacement of indigenous communities, damage to local ecosystems, and lack of public consultation and adequate legal protection. Greenwashing practices occur because companies and investors often use sustainability narratives only to strengthen their image, without any real commitment to environmental protection and social justice. This is exacerbated by weak regulations, voluntary ESG standards, and a lack of oversight mechanisms and independent audits. ESG reports are often biased, non-transparent and lack meaningful community engagement. The mismatch of ESG standards between investors' home countries and the Indonesian context also creates legal loopholes that companies exploit to claim sustainability without evidence of real positive impacts.

The absence of specific and binding legal instruments leads to a legal vacuum, making greenwashing practices and violations of local community rights difficult to prevent and act upon. To overcome this problem, several concrete steps are needed to strengthening regulations that require the principle of Free, Prior, and Informed Consent

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<sup>11</sup> Anne Lafarre. (2023). The Proposed Corporate Sustainability Due Dilligence Directive: Corporate Liabilty Design for Social Harms. *European Business Law Review*. 34 (2), 213-240, <https://doi.org/10.54648/eulr2023017>.

<sup>12</sup> Fransesco Sisca, et al. (2023). Taxonomy and Inidcators for ESG Investment, *Sustainability*. 15 (22), <https://doi.org/10.3390/su152215979>.

(FPIC) also transparency in every stage of the project. Independent audits that are open and accessible to the public. Increased active participation of local communities from the planning stage to project implementation. Provision of legal mechanisms that allow affected communities to sue companies or investors that violate their rights, either in national courts or through international grievance schemes. Such measures are essential for green investments to truly contribute to a just energy transition, environmental protection, and respect for the rights of local communities in Indonesia, rather than simply being a tool for capital accumulation with a false narrative of sustainability

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