

Legal Policy of Green Investment: A Study of the Green Constitution and *Fiqh Bi'ah* towards Net Zero Emissions in Indonesia

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Abstract

There is an urgent need for a legal policy of green investment law to reduce gas emissions in Indonesia based on the perspective of the green constitution and *Fiqh Bi'ah* in the contemporary era. This urgency is parallel to the development of the global response to sustainable economic transformation to achieve net zero emissions by 2060. However, the green investment policy design has to hold a strategic position in Indonesia's positive law because it always remains partial. In other words, such a policy requires comprehensive examination based on the Green Constitution and *Fiqh Bi'ah* in constructing future national, legal, and political designs relevant to the net zero emission paradigm. This study employs a normative legal research method with philosophical, conceptual, historical, comparative, and statutory approaches. Primary, secondary, and tertiary legal sources were analysed using a qualitative juridical method. The findings indicate that the 1945 Constitution has constitutionally

accommodated the principles of the Green Constitution, which align with *Fiqh Bi'ah* regarding sustainable environmental management as mandated by the Quran. This legal construction can be a strategic foundation for green investment policies based on net zero emissions to address climate change. The alignment between the Green Constitution and *Fiqh Bi'ah* strengthens green investment policies as a concrete step toward preserving the earth for the sustainability of future generations. Thus, integrating these two perspectives becomes a primary element in building a sustainable civilisation oriented towards environmental preservation.

KEYWORDS *Legal Policy, Green Investment, Net Zero Emission, Green Constitution and Fiqh Bi'ah*

Introduction

Through the National Long-Term Development Plan (RPJPN) 2025-2045, the government establishes Visi Indonesia Emas 2045 as a Sovereign, Advanced, and Sustainable Nusantara State. One of the five targets of this vision is to reduce the intensity of greenhouse gas emissions (EGRK) towards net zero emissions. Rich and poor countries share equal responsibilities for global warming but should perform different actions to tackle the issue. In principle, it must be guided by the principle that the climate and life of humanity must be protected for the benefit of humanity itself in the present and future according to their respective responsibilities and abilities¹.

Achieving Visi Indonesia Emas 2045 will require the state to follow the current global trend of contributing to climate change resolution to meet the Net Zero Emission target stipulated in the 2016 Global Paris Agreement. On the agenda of the Global Paris Agreement, an agreement has been reached to reduce emissions to net zero by 2060. The meeting gave impetus for countries to transform their economies by switching to environmentally sound or environmentally friendly economies. The transformation in question involves a shift from an extractive economy to a circular economy. The Extractive

¹ S. Niggol Seo, "Beyond the Paris Agreement: Climate Change Policy Negotiations and Future Directions," *Regional Science Policy & Practice* 9, No. 2 (2017): 124.

Economy is "take-use-waste" oriented², while the Circular Economy is a paradigm covering environmental, economic, and social implications for productive systems and consumers³. With the transformation towards a circular economy, the industry will be oriented towards recovery, energy transition, material recycling, and waste handling to overcome climate change and save the earth in the future⁴.

In Indonesia, economic transformation and institutional governance of legal development to achieve Visi Indonesia Emas 2045 are prepared according to the framework of the rule of law as in Article 1, paragraphs (2) and (3) of the 1945 Constitution. Environmentally friendly regulations and policies must be specifically designed to reach net zero carbon emissions. The concept of the Green Constitution is enshrined in the Preamble of the 1945 Constitution and its articles⁵, and its principles guide concepts and norms for new and renewable energy control formats that should be harmonious with environmental protection and preservation⁶ values. Economic transformation based on the Green Constitution will also create a green economy investment climate and achieve environmentally friendly products and zero carbon emissions to meet the current trend of global market demand.

Governments worldwide have implemented economic support mechanisms to encourage private investment, thus causing many companies to invest in renewable energy production⁷. Research from London reveals the importance of a coordinated set of long-term policies and institutions that enable and encourage private sector investment to innovate and have green assets quickly. To enter a virtuous cycle where pro-environment attitudes can facilitate and drive the transition to net zero, a coherent and coordinated

² Ellen Macarthur, "Towards the Circular Economy," *Journal of Industrial Ecology* 2, No. 1 (2013): 23–44.

³ Víctor Meseguer-Sánchez Et Al., "The Main Research Characteristics of The Development of The Concept of the Circular Economy Concept: A Global Analysis and the Future Agenda," *Frontiers in Environmental Science* 9 (2021): 1.

⁴ Ahmed A. Khalifa Et Al., "Accelerating the Transition to A Circular Economy For Net-Zero Emissions By 2050: A Systematic Review," *Sustainability* 14, No. 18 (2022): 11656.

⁵ Sekar Anggun Gading Pinilih, "The Green Constitution Concept in the 1945 Constitution of the Republic of Indonesia," *Mimbar Hukum* 30, No. 1 (2018): 210.

⁶ Indah Dwi Qurbani And Ilham Dwi Rafiqi, "Prospective Green Constitution in New and Renewable Energy Regulation," *Legality: Jurnal Ilmiah Hukum* 30, No. 1 (2022): 68.

⁷ Fernando Dias Simões, "Investment Law and Renewable Energy: Green Expectations in Grey Times," *How International Law Works in Times of Crisis*, 2019, 206–20.

package of policies and investments must be implemented and communicated effectively⁸.

The research results on global efforts to realise net zero emissions confirm that the green investment paradigm significantly reduces carbon emissions. Implementing green investment encourages companies, business actors, and communities to switch to environmentally friendly products and activities⁹. Empirical studies in China have found that green bond policies directly encourage green innovation and green space¹⁰.

Other research shows that Germany is the only country with a net-zero target in the law. The United States has not announced a federal net-zero target in law but has set a net-zero target under a Presidential Executive Order. At the state level, however, California has set net-zero targets and enacted laws to enforce them similar to Germany's. China has set net-zero targets but has yet to see net-zero litigation. Brazil has no net-zero target in law nor net-zero litigation. However, major companies have begun to file claims of 'net-zero washing', and potential litigation using established consumer protection rules has been found¹¹. Increased awareness of climate change has prompted stricter mitigation targets. Canada is committed to being at the forefront of this mitigation initiative with an investment development approach in net zero emission buildings (NZEB)¹².

The Green Constitution places environmental protection as the main principle. The legal politics of green investment will ensure that all investments adhere to strict environmental standards and contribute to environmental preservation to significantly reduce carbon emissions. Through the Green Constitution, countries can regulate investments strictly to ensure they comply with the environmental principles set out in the Constitution. The concept of

⁸ Nicholas Stern and Anna Valero, "Innovation, Growth and the Transition to Net-Zero Emissions," *Research Policy* 50, No. 9 (2021): 11.

⁹ Bintang Adi Pratama And Amrie Firmansyah, "Pembiayaan Hijau: Akselerasi Pembangunan Berkelanjutan Demi Mencapai Net Zero Emission," *Journal of Law, Administration, and Social Science* 4, No. 1 (2024): 150.

¹⁰ Chien-Chiang Lee, Fuhao Wang, And Yu-Fang Chang, "Towards Net-Zero Emissions: Can Green Bond Policy Promote Green Innovation and Green Space?," *Energy Economics* 121 (2023): 106675.

¹¹ Delta Merner Et Al., "Comparative Analysis of Legal Mechanisms to Net-Zero: Lessons from Germany, The United States, Brazil, And China," *Carbon Management*, 2023, 10–11, <https://eprints.lse.ac.uk/120857/>.

¹² Rajeev Ruparathna, Kasun Hewage, And Rehan Sadiq, "Rethinking Investment Planning and Optimizing Net Zero Emission Buildings," *Clean Technologies and Environmental Policy* 19 (2017): 1711.

net zero carbon emissions is a significant focus in green investment politics, meaning that all investments must contribute to the overall reduction of carbon emissions or at least provide comparable compensation for the emissions produced.

The Green Investment Paradigm has a positive and significant influence on reducing carbon emissions¹³, and this green investment is a critical factor in sustainable green development.¹⁴ However, the green investment position needs recognition in Indonesia's positive law. Justice and legal certainty regarding green investment implementation must be fulfilled because an ideal and comprehensive legal construction on green investment will lead to a long-term and sustainable green investment climate¹⁵.

Article 33 (4) of the 1945 Constitution is the leading legal umbrella in the Green Constitution, which mandates that the national economy be organised based on environmentally sound principles, among other principles. In addition, the specific regulation on green Investment is also based on Law No. 25 of 2007 concerning Investment. Article 3, paragraph 1 letter (h) mandates that Investment is carried out based on environmentally sound principles. This principle is stipulated in Article 12 paragraph (3), Article 16 point d, Article 17, Article 18 paragraph (3) letter g, Article 24 point b, and Article 30 paragraph (7) letter a. Furthermore, Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector governs environmental conservation-related matters.

Some other delegated regulation-level policies also govern fiscal and non-fiscal incentive applications for green investment business actors, such as tax exemptions, tax reductions, import duties borne by the Government, and import duties facilities¹⁶. These policies are stipulated in Government Regulations and Minister of Finance Regulations. Rules regarding green investment are also governed under Financial Services Authority Regulation

¹³ Daffa Syabilla, Aniek Wijayanti, And Rahmasari Fahria, "Pengaruh Investasi Hijau Dan Keragaman Dewan Direksi Terhadap Pengungkapan Emisi Karbon," *Konferensi Riset Nasional Ekonomi Manajemen dan Akuntansi* 2, No. 1 (2021): 1171.

¹⁴ Yuan Lai and Muhammad Tayyab Sohail, "Revealing the Effects of Corporate Governance on Green Investment and Innovation: Do Law and Policy Matter?," *Frontiers in Psychology* 13 (2022): 961122.

¹⁵ Bintan Rahayu Anisah, "Eksistensi Investasi Hijau dalam Poros Pembangunan Ekonomi Sebagai Bentuk Manifestasi Perlindungan Atas Lingkungan Hidup," *Padjadjaran Law Review* 8, No. 1 (2020): 127.

¹⁶ Annisa Dinda Soraya, "Kebijakan Investasi Hijau dalam Perundang-Undangan Indonesia Sebagai Upaya Penurunan Emisi Grk Nasional Menuju E-Ndc 2030," *Unes Law Review* 6, No. 2 (2023): 5331.

(POJK) Number 18 of 2023, superseding POJK Number 60/POJK.04/2017 concerning Issuance and Requirements of Environmentally Friendly Debt Securities (Green Bond). Green bonds in Indonesia's capital market are one of the implementations of sustainable development, especially in sustainable finance¹⁷. The current legal provisions regarding green bonds are based only on the POJK.

Conceptually, favourable laws in Indonesia have regulated green investment despite no definite affirmation or recognition. Juridical instruments regarding green investment are still fragmentary in several regulations, resulting in an overlap between these regulations. The current green investment regulation cannot be a concrete guideline for implementing green investment. The programs of each relevant ministry have also become less focused and less organised, impeding Net Zero Emissions achievement.

Uncertainty in government policies related to incentives and regulations for green investment may present a setback. Clarity and consistency in policy are essential to provide confidence to investors. Legal protection of both domestic and foreign investors should be a primary concern. Investment security and consistent law enforcement are needed to attract investors and strengthen their confidence in investment. The Indonesian government needs to improve the legal framework related to green investment to attract more investors and ensure that sustainable development positively impacts the environment, society, and the realisation of Net Zero Emission. A discussion of the politics of green investment law based on net zero emission from the perspective of the Green Constitution is needed to find a practical and ideal green investment policy format. Legal politics is a driving instrument for all elements of national legal systems¹⁸ to create concrete legal policies and regulations with appropriate direction and objectives.

The above description reveals conflicts between legal norms and inter-institutional policies that contradict the substantive material of the Green Constitution stipulated in the 1945 Constitution, particularly regarding green investment implementation. Existing legal norms and economic policies born by related institutions have yet to comprehensively accommodate a circular economy based on environmental insight according to the mandate of Article 33 paragraph (4) of the 1945 Constitution. This incongruity threatens the

¹⁷ Budi Endarto, Fikri Hadi, And Nur Hidayatul Fithri, "Politik Hukum Green Bond di Indonesia the Politic of Law on Green Bond in Indonesia," *Jurnal Bina Hukum Lingkungan* 7, No. 1 (2022): 18.

¹⁸ Danggur Konradus, "Politik Hukum Berdasarkan Konstitusi," *Masalah-Masalah Hukum* 45, No. 3 (2016): 205.

realisation of the global agenda and Indonesia's commitment: Net Zero Emission 2060.

In Islamic law, five categories of formal legal norms include mandatory, haram, *makruh*, *mubah*, and *mandub*¹⁹. In environmental management, moral-ethical norms also apply. If the formal legal category measures an act on a scale of right or wrong, the moral-ethical dimension measures it on a scale of good or bad. This view of the environment in Islamic law is called *fiqh bi'ah*—the concept of Islamic law in the environment (environmental *fiqh*). This concept is built based on the framework of *maqashid shari'ah*²⁰.

This study intends to resolve how the politics of green investment law is based on net zero emission from the Green Constitution and *Fiqh Bi'ah* perspectives. The results of this study are expected to contribute to the process of formulating a comprehensive green investment construction to provide legal certainty and legal protection for economic, investment, and environmental resilience.

The normative legal research method was chosen as the basis for research to answer the legal problems and obtain a comprehensive answer. Normative legal research is a method to formulate legal rules, principles, and doctrines in constructing legal argumentation as problem-solving in a legal issue. This type of research is considered appropriate for analysing the legal politics of green investment from the perspective of the green constitution and *fiqh bi'ah* for the benefit of net zero emission in Indonesia. This study uses a statutory approach relevant to the issue observed and a conceptual approach for a more comprehensive and in-depth problem analysis²¹. The Green Constitution and *Fiqh Bi'ah* are the basis of the instrument analysis in reasoning the proportional green investment law as the foundation of a low-carbon, environmentally sound economy in Indonesia. The data were analysed based on the content analysis method. Holsti conveyed that the content analysis method approach is used to open new horizons in finding, identifying, and processing material through conceptual integration of exploration of research objects²². This method was

¹⁹ Fikri Muhtada Muhtada and Muhammad Abdul Aziz Abdul Aziz, "Kajian Hukum Taklifi Menurut Para Imam Mazhab," *Tabkim* 17, No. 2 (2022): 258.

²⁰ M. Hasan Ubaidillah, "Fiqh Al-Biah (Formulasi Konsep Al-Maqasid Al-Shari'ah dalam Konservasi Dan Restorasi Lingkungan)," *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 13, No. 1 (2010): 26.

²¹ Robert Elliott And Ladislav Timulak, "Descriptive and Interpretive Approaches to Qualitative Research," *A Handbook of Research Methods for Clinical and Health Psychology* 1, No. 7 (2005): 147–157.

²² Ole R. Holsti, "Content Analysis for the Social Sciences and Humanities," *Reading. Ma: Addison-Wesley (Content Analysis)*, 1969, 14.

employed to analyse more dynamic research issues through conceptual literacies on net zero emissions-based green investment laws presented in each author's analysis argumentation.

Green Constitution and Legal Policy of Indonesian Green Investment Law Based on Net Zero Emission (NZE)

The study of legal politics on Net Zero Emission (NZE)-based green investment focuses on whether existing state legal products are ideal to support the implementation of the program. According to K. David, political analysis of law is closely related to how a law is articulated and interpreted based on the basic principles and objectives achieved by the legal product²³. It is considered a critical legal reasoning methodology for testing legal ideals²⁴ and done to determine whether the non-operation of a law is due to errors in its construction or the intervention of the ruler²⁵. Objectivity in legal analysis is essential for determining moral and juridical freedom, which can be measured through consistency, interpretation, and linearity of norms against just legal construction²⁶. Clear indicators are needed to analyse the legal politics of NZE Green Investment in Indonesia as idealised above. The stages of political legal studies proposed by K.E. Whittington can be used as an analytical tool consisting of three stages: theoretical understanding, theory development, and interpretive analysis²⁷.

²³ David Kairys, "The Politics of Law - Introduction and Contents," SSRN Scholarly Paper (November 8, 2005), <https://papers.ssrn.com/abstract=841469>.

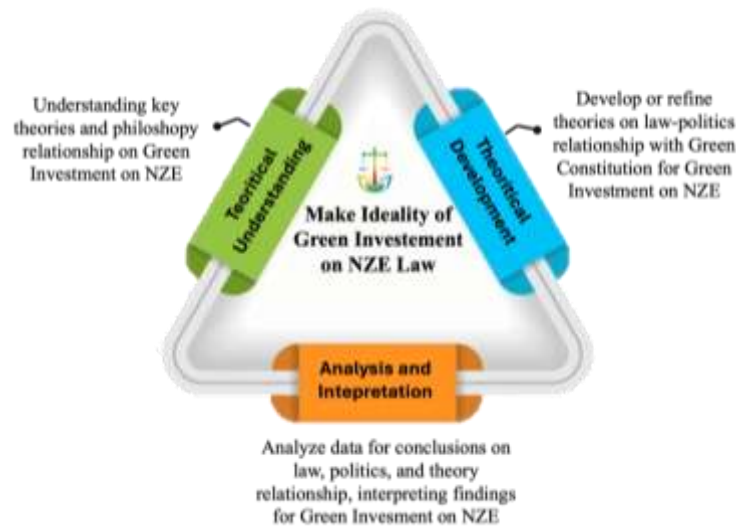
²⁴ Richard W. Bauman, *Critical Legal Studies: A Guide to the Literature* (Routledge, 2021).

²⁵ Adrian Merritt, "The Nature and Function of Law: A Criticism of E.P. Thompson's 'Whigs and Hunters,'" *British Journal of Law and Society* 7, No. 2 (1980): 194–214, <https://doi.org/10.2307/1409660>.

²⁶ Charles Fried, "The Laws of Change: The Cunning of Reason in Moral and Legal History," *The Journal of Legal Studies* 9, No. 2 (1980): 335–353, <https://doi.org/10.1086/467643>.

²⁷ Keith E. Whittington, R. Daniel Kelemen, And Gregory A. Caldeira, *The Oxford Handbook of Law and Politics*. Oxford: OUP Oxford, 2010.

FIGURE 1. A Simple Thought Process of Legal Politics Study From K.E. Whittington to Analyse Green Investment on NZE Law



Source: Processed data (2024)

This first study focuses on understanding Green Constitution (GC) theory as a basic framework that integrates law, economics, and the environment to create environmentally friendly investment policies. The GC paradigm pays special attention to the integration of investment and ecology to reduce the adaptability and resilience of all living things in the face of massive development²⁸. These concerns have led various countries to become aware and move to incorporate ecological principles into their constitutions²⁹. The emergence of terms such as "*environmental constitution*" (green constitution) marks the operational basis of a country that emphasises the importance of protecting environmental rights in every policy³⁰. The existence of GC acts to

²⁸ Anna Wienhues, *Ecological Justice and the Extinction Crisis: Giving Living Beings Their Due*. Bristol: Bristol University Press, 2020. <https://doi.org/10.47674/9781529208528>.

²⁹ Lynda Collins, *The Ecological Constitution: Reframing Environmental Law*. London: Routledge, 2021. See also Johan Manullang, Christopher Adiguna Bhakti, Cut Mutia Sari, and Muhammad Firmansyah. "From Palm Oil to Green Energy: Human Rights and Ecological Dilemmas in Energy Transitions", *Indonesian Climate Justice Review* 1, no. 3 (2024). For further context and cases, also see Lukas Müller, Marta Sánchez, Sofia Conti, Nabilah Ismail, Leila Ben Mansour, "Climate Justice and the Law: Legal Mechanisms for Protecting Climate Refugees in the Global South", *Journal of Transformative Legal and Social Studies* 1, no. 1 (2025); Zulfikar Zulfikar, and Harrison Wood, "Climate Change and Environmental Law: The Indonesian Court's Role in Enforcing Sustainable Development", *Indonesian Court and Justice Review* 2, no. 2 (2025).

³⁰ David R. Boyd, "Constitutions, Human Rights, and The Environment: National Approaches," In *Research Handbook on Human Rights and the Environment*. London:

guide the state in creating a balance between the environment and social justice, representing a critical aspect in the formation of sustainable development-minded laws³¹. With environmentally sound laws, any policy (including the economy) is guided to prioritise the protection of nature to ensure that the current generation's use of natural resources does not sacrifice the survival of future generations³². The philosophy behind the adoption of ecological principles into the constitution does not merely position humans as subjects. However, it also extends the right to develop a healthy environment to all living beings towards the country's development projects³³.

The second study related to the development of the Green Constitution (GC) theory focuses on the role of the GC ontology paradigm in reforming existing environmental law³⁴. With its ecological protection philosophy, the GC is considered a suitable instrument to theoretically integrate into legal construction, particularly in net zero emission (NZE)-based investment law. The broad and thorough essence of GC requires concrete reasoning for an analysis benchmark, allowing for the realisation of the idea of imperative state involvement in addressing environmental issues through more effective laws³⁵. In this context, Dinah L. Shelton has provided a framework for understanding the relationship between the philosophy of environmental law and the human rights embodied in the GC. Shelton emphasised the importance of analysing environmental issues by considering principles such as recognition of human rights to a healthy environment, principles of prevention against environmental

Edward Elgar Publishing, 2015, pp, 170–99, <https://www.elgaronline.com/edcollchap/edcoll/9781782544425/9781782544425.00017.xml>.

³¹ I. Suryawan and Ismail Aris, “Strengthening Environmental Law Policy and Its Influence on Environmental Sustainability Performance: Empirical Studies of Green Constitution in Adopting Countries,” *International Journal of Energy Economics and Policy* 10, no. 2 (2020): 132–138.

³² John Frow, “On Intergenerational Justice,” *Australian Humanities Review* 71 (2023): 24–36.

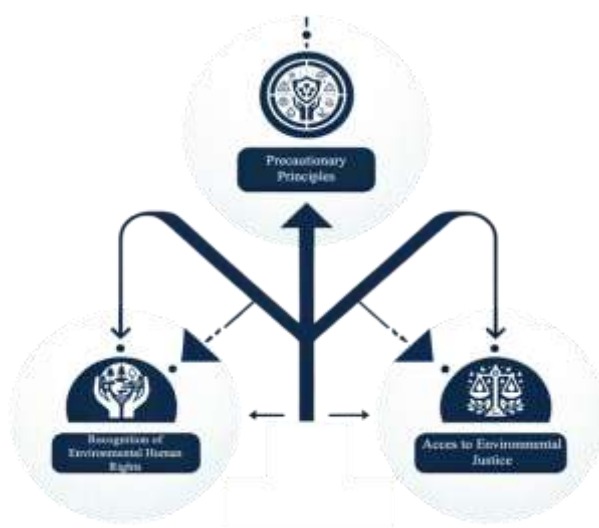
³³ John Gledhill, “Justice for People Must Come Before Justice for the Environment,” Accessed March 6, 2024, <https://www.academia.edu/download/88888285/16861.pdf>.

³⁴ Kati Kulovesi, Michael Mehling, And Elisa Morgera, “Global Environmental Law: Context and Theory, Challenge and Promise,” *Transnational Environmental Law* 8, No. 3 (2019): 405–435, <https://doi.org/10.1017/s2047102519000347>.

³⁵ “New York’s New Constitutional Environmental Bill of Rights: Impact and Implications, Albany Law School,” April 22, 2022, <https://www.albanylaw.edu/government-law-center/new-yorks-new-constitutional-environmental-bill-rights-impact-and->

damage, and access to environmental justice³⁶. These GC principles are the responsibility of the Government and must be understood and interpreted by all components of the state as a manifestation of life protection in every sector³⁷.

FIGURE 2. The philosophy of environmental law and human rights on the Green Constitution



Source: *Processed data on the construction of the Green Constitution of Dinah L. Shelton*

The third study is related to analysis and interpretation. The political analysis of NZE green investment law in Indonesia was conducted to assess whether this investment is ideal from the perspective of three philosophical principles of environmental law and human rights based on GC. The first is the recognition of the human right to a healthy environment³⁸. Human rights in the field of environment have been recognised in constitutions worldwide to command countries to achieve a healthy environment. Indonesia has represented this manifestation because protecting a good and healthy environment is expressly contained in Article 28 H paragraph (1) of the 1945 Constitution. Article 33, paragraph (4) set out the protection of people's ecological rights through the implementation of an environmentally sound

³⁶ Dinah Shelton, "Human Rights, Environmental Rights, and the Right to Environment," In *Environmental Rights*. London: Routledge, 2012.

³⁷ Netty S. R. Naiborhu, "Green Constitution: Strengthening Environment Principle in the Act Of 1945," *Journal of Environmental Management and Tourism* 9, No. 5 (2019): 1044–1051, [https://doi.org/10.14505/jemt.9.5\(29\).16](https://doi.org/10.14505/jemt.9.5(29).16).

³⁸ Mia Basic, "Global Environmental Constitutionalism," *Proceedings of the Faculty of Law in Split* 55 (2018): 273.

economy. However, human environmental rights in Indonesia are vulnerable to threats due to global climate change. The impact of climate change in Indonesia has created a prolonged drought that has caused a decline in water quality and quantity, species decline, and habitat change, which reduces environmental resilience and threatens human welfare³⁹.

Based on the constitution, the state can respond to the threat of climate change by strengthening its commitment to protecting environmental rights by integrating into an ecological-minded legal framework. The integration of constitutional thinking on ecological issues can shape the legal framework of green investment to address climate change through an economic approach. Enforcement of green investment laws is crucial in creating a net zero emissions-oriented industrial ecosystem to balance business activities and environmental protection. A green investment orientation that focuses on a sustainable economy is essential in the development of industries that minimise gas emissions, prioritise the principle of natural balance, and encourage energy transformation, all contributing to environmental resilience and the sustainability of human life⁴⁰.

The second is the precautionary principle. The principle of prevention underscores the importance of state preparedness in maintaining environmental resilience. By applying the precautionary principle internally in legal products, the role of the state and apparatus is expected to be more proactive than reactive in dealing with environmental problems⁴¹. Investment law in Indonesia, which morally supports the responsibility of prevention, has confirmed the importance of the state in realising an economy that is integrated with the environment⁴².

³⁹ Muhammad Iqbal Iskandar, "Dampak Perubahan Iklim di Indonesia, Bahaya, dan Contohnya," *Tirto.id*, Accessed March 9, 2024, <https://tirto.id/dampak-perubahan-iklim-di-indonesia-bahaya-dan-contohnya-gycf>.

⁴⁰ Xuan Shao, "Environmental and Human Rights Counterclaims in International Investment Arbitration: At the Crossroads of Domestic and International Law," *Journal of International Economic Law* 24, No. 1 (2021): 157–179, <https://doi.org/10.1093/jiel/jgab001>.

⁴¹ Adrian Vermeule, "Precautionary Principles in Constitutional Law," *Journal of Legal Analysis* 4, No. 1 (2012): 181–222, <https://doi.org/10.1093/jla/las003>.

⁴² The legitimacy of Indonesian investment law integrated with the environment can be seen in Article 33 paragraph (4) of the 1945 Constitution, explaining one of the principles of the country's economic democracy, one of which prioritizes environmental insight. The principle of environmental insight is also emphasized in the Law. No. 25 of 2007 concerning Investment, especially in the Objective Principle section in Article 3, explaining the implementation of investment that prioritizes the principle of environmental insight.

with the goal of preventing environmental damage. The integration between business and the environment reflects green investments aimed at realising economic transformation towards reducing gas emissions to prevent climate change and create a fair life for current generations without compromising future generations⁴³. Harremoes et al. explained that the realisation of the principle of prevention in tackling climate change must be oriented towards funding policies that support clean technology and renewable energy. However, the question arises of whether the laws and regulations in Indonesia are proportionate enough to support green investment in tackling climate change. The MIT Climate Portal offers four strategic indicators⁴⁴ for investment in the face of climate change, which can be used as a reference to answer these questions (See the table below).

TABLE 1. Analysis of Indicators of green investment instruments for climate change alleviation against Indonesian Law

Indicator	Information
<i>ESG Ratings</i>	The implementation of the <i>ESG Rating</i> is carried out based on POJK Number 51/POJK.03/2017 concerning the Application of Sustainable Finance for Financial Service Institutions, Issuers, and Public Companies. However, the rules do not set the criteria for standardizing ideal green investments.
<i>ESG Funds</i>	The implementation of ESG Funds is also carried out based on the OJK Regulation above, which operationally still requires advanced technical rules as a guideline for the criteria for projects funded by the instrument.
<i>Green Bonds</i>	The provisions of green bonds are technically regulated in OJK Regulations by stipulating 11 projects funded by the instrument
<i>Divestment</i>	The new and renewable energy bill that has not been immediately passed sparks uncertainty among investors to divest shares in the field of non-renewable fossil energy

Source: *Writing Processed Data (2024)*

⁴³ Kimberly A. Wade-Benzoni Et Al., "In Fairness to Future Generations: The Role of Egocentrism, Uncertainty, Power, and Stewardship in Judgments of Intergenerational Allocations," *Journal of Experimental Social Psychology* 44, No. 2 (March 1, 2008): 233–245, <https://doi.org/10.1016/j.jesp.2007.04.004>.

⁴⁴ The four indicators of green investment policy development strategies in overcoming climate change consist of: (1) *Environmental, Social, and Government (Esg) Ratings*, (2) *Esg Funds*, (3) *Green Bonds*, and (4) *Divestment*, see: "Investing and Climate Change, MIT Climate Portal," accessed March 12, 2024, <https://climate.mit.edu/explainers/investing-and-climate-change>.

Table 1 implies that Indonesian law does not proportionately support NZE-based green investment in preventing the threat of climate change. For example, the ESG ratings, ESG funds, and Green Bonds sector are only regulated by POJK as an institutional regulation. Instead, it should be regulated broadly under statutory laws to overshadow more ideal ESG criteria⁴⁵. Although ESG Ratings have been carried out by the Indonesia Stock Exchange together with Morningstar Sustainalytics⁴⁶, if there is no proportional rule, it does not guarantee that ESG ratings function to standardise a transparent green investment framework to prevent greenwashing⁴⁷. Although POJK has accommodated it, the regulation needs to specifically regulate implementation reporting format guidelines, which makes it difficult for companies to expect to determine the ideal program according to ESG criteria⁴⁸. On the other hand, the provisions of Green Bonds in POJK also do not explicitly stipulate "environmentally friendly" standardisation criteria. Despite 11 Green Bond sector projects, without standardisation, it can potentially increase non-compliance due to unclear interpretation⁴⁹. The identification of weaknesses in existing legal products is a record for ideal legal politics in the construction of NZE-based green investment law. The goal is for Indonesia to have a proportional law as a guideline for the implementation of the green business industry as part of efforts to overcome the threat of climate change.

The third is access to justice. The legal basis for environmental enforcement owned by Indonesia is not only for the benefit of green investment but also to follow up on all environmental issues, including climate change⁵⁰.

⁴⁵ Ferinda K. Fachri, "Esensi Esg dalam Tata Kelola Perusahaan dan Pengaturannya di Indonesia," *HukumOnline*, Accessed March 12, 2024, <https://www.hukumonline.com/berita/a/esensi-esg-dalam-tata-kelola-perusahaan-dan-pengaturannya-di-indonesia-lt653375c499620/>.

⁴⁶ "Listed Corporate ESG Value," Suit-Baze, Accessed March 13, 2024, <https://www.idx.co.id/>.

⁴⁷ Jianzhuang Zheng, Muhammad Usman Khurram, And Lifeng Chen, "Can Green Innovation Affect Esg Ratings and Financial Performance? Evidence From Chinese Gem Listed Companies," *Sustainability* 14, No. 14 (January 2022): 8677, <https://doi.org/10.3390/su14148677>.

⁴⁸ Benjie, "A Regional Comparison of Esg Regulations: Indonesia," *Law Asia* (Blog), August 4, 2023, <https://law.asia/comparison-of-esg-regulations-indonesia/>.

⁴⁹ "Esg In Indonesia: Legal Aspects of Green Bonds in Indonesia - Climate Change - Indonesia," Accessed March 13, 2024, <https://www.mondaq.com/climate-change/1362060/esg-in-indonesia-legal-aspects-of-green-bonds-in-indonesia>.

⁵⁰ Act. No. 32 of 2009 concerning Environmental Protection and Management implies that there is a major legal basis for any action that threatens environmental security in Indonesia.

Public participation has received less serious attention in law, resulting in difficulty realising participatory green investment justice in Indonesia. The urgency of accommodating public participation in green investment law is to uphold repressive justice and maintain social justice so that justice applies horizontally (equally), not vertically⁵¹. Public participation is an instrument that ensures equal access to investment for everyone⁵². In addition, the involvement of public participation will be an external control for the implementation of investment that promotes green principles⁵³. There is an urgent need for participatory elements to be integrated into the construction of Indonesia's green investment law. The participatory construction of green investment law will be an external control for transparent business implementation in realising Net Zero emissions so that it can play an optimal role in overcoming climate change in Indonesia.

The green investment legal framework for Indonesia can be an independent economic instrument in overcoming global challenges in the financing fulfilment sector, overcoming climate change, and supporting sustainable development towards net zero emissions. This effort is part of the realization of the global commitment to climate change mitigation from the Paris Agreement (2015), which targets a global temperature of 1.5°C in containing temperatures below 2°C⁵⁴. The program plan is an ambitious, giant project requiring hundreds of billions to trillions of dollars per year. To realize this giant program, the developed countries are bound to meet the funding of \$100 billion per year that has been collected since 2022. The OECD reported that developed countries provided \$115.9 billion, which exceeded the target⁵⁵.

⁵¹ Roger Few, Katrina Brown, And Emma L. Tompkins, "Public Participation and Climate Change Adaptation," *Tyndall Centre for Climate Change Research Working Paper* 95, No. 3 (2006), <https://www.academia.edu/download/347859/twp95-particip-incl.pdf>.

⁵² Avidan Kent, Tarcisio Gazzini, And Eric De Brabandere, "Public Participation in International Investment Law: Setting the Scene," In *Public Participation and Foreign Investment Law*. Leiden: Brill Nijhoff, 2021, pp, 3–14, https://doi.org/10.1163/9789004397668_002.

⁵³ Xianchun Liao And Xunpeng (Roc) Shi, "Public Appeal, Environmental Regulation and Green Investment: Evidence from China," *Energy Policy* 119 (2018): 554–562, <https://doi.org/10.1016/j.enpol.2018.05.020>.

⁵⁴ Valérie Masson-Delmotte, et al. "Global warming of 1.5 C." *An IPCC Special Report on the impacts of global warming of 1.5* (2018): 43-50.

⁵⁵ "Developed Countries Materially Surpassed Their USD 100 Billion Climate Finance Commitment in 2022," OECD, May 29, 2024, <https://www.oecd.org/en/about/news/press-releases/2024/05/developed-countries-materially-surpassed-their-usd-100-billion-climate-finance-commitment-in-2022-oecd.html>.

The burden of funding is on developed countries because they have historical responsibility for emissions, so they can oversee funding and technology to address climate change⁵⁶. However, the debate is that funding distribution is carried out with a high-interest scheme. It is very burdensome for developing countries because it can increase the debt burden⁵⁷. Disproportionate access to funding makes developing countries view this project as onerous, which may hinder economic development⁵⁸.

Indonesia should have a green investment legal framework that can be an alternative to internal financing when climate change financing from developed countries is not the best option. Since Indonesia needs an enormous budget of around Rp. 4000 trillion to overcome climate change until 2030⁵⁹. To support the realization of NZE 2060 through climate change policies, the budget needed will be at about Rp. 28,000 trillion⁶⁰. Green investment policies can be a primary option in addition to efforts to pressure developed countries to provide a more equitable distribution of climate change budgets. The realization of green investment can grow an environmentally friendly industrial economic climate while weakening the stigma of Indonesia significantly contributing to emissions in the world among other countries⁶¹. In addition, implementing green investment in Indonesia plays a role in the implementation of the Nationally Determined Contributions (NDCs) instrument as a financing mechanism for climate action as mandated under the Paris Agreement (2015).

⁵⁶ Paul G. Harris, "Common but Differentiated Responsibility: The Kyoto Protocol and United States Policy," *New York University Environmental Law Journal* 7 (1999): 27.

⁵⁷ Tracy Carty and Jan Kowalzig, "Climate Finance Short-Changed: The Real Value of the \$100 Billion Commitment in 2019–2020," 2022, <https://fly.jiuhuashan.beauty/https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621426/bn-climate-finance-short-changed-191022-en.pdf?sequence=7>.

⁵⁸ Rob Dellink et al., "Sharing the Burden of Financing Adaptation to Climate Change," *Global Environmental Change* 19, no. 4 (2009): 411–421, <https://doi.org/10.1016/j.gloenvcha.2009.07.009>.

⁵⁹ "Climate-Aligned Investments in Indonesia's Financial Sector," CPI, accessed January 22, 2025, <https://www.climatepolicyinitiative.org/publication/climate-aligned-investments-in-indonesias-financial-sector/>.

⁶⁰ Wibi Pangestu Pratama, "Fantastis! Butuh Dana Rp28.223 Triliun Wujudkan Net Zero Emission 2060," *Bisnis.com*, June 9, 2022, <https://ekonomi.bisnis.com/read/20220609/9/1541815/fantastis-butuh-dana-rp28223-triliun-wujudkan-net-zero-emission-2060>.

⁶¹ Ben Groom, Charles Palmer, and Lorenzo Sileci, "Carbon Emissions Reductions from Indonesia's Moratorium on Forest Concessions Are Cost-Effective yet Contribute Little to Paris Pledges," *Proceedings of the National Academy of Sciences* 119, no. 5 (2022): e2102613119, <https://doi.org/10.1073/pnas.2102613119>.

However, Indonesia's financial condition cannot support the climate change action project, considering it can only cover about 34% of the total funding needs⁶².

The position of the green investment legal framework in Indonesia can be a strategic step to support the mandate of Article 2 of the Paris Agreement (2015) in preparing a framework for financing low-carbon development investment to address climate change⁶³. The position of the legal framework can be the basis for collaborative work between the state and the private sector through the public-private partnership⁶⁴ scheme to move towards net zero emissions through green investment schemes. In addition, implementing the green investment legal framework in Indonesia can also be an instrument that can overcome developing countries' financing challenges in implementing SDG point 13 to take action to mitigate climate change. The OECD reveals that the problem of developing countries experiencing climate change mitigation financing requires collaborative and innovative action to support the programs⁶⁵. Ultimately, collaboration between the state and the private sector can be a solution to increase funding to support the realisation of priorities for climate change efforts towards NZE⁶⁶. So, the green investment legal framework can be an independent instrument for Indonesia to collaborate with each party in implementing climate change projects through environmentally friendly business schemes.

⁶² Tim Harian Kompas, "Indonesia Butuh Tambahan Rp 180 Triliun Per Tahun untuk Tangani Perubahan Iklim," Kompas.id, January 18, 2025, <https://www.kompas.id/artikel/ri-butuh-tambahan-rp-180-triliun-per-tahun-untuk-tangani-perubahan-iklim>.

⁶³ Jon Birger Skjærseth et al., "The Paris Agreement and Key Actors' Domestic Climate Policy Mixes: Comparative Patterns," *International Environmental Agreements: Politics, Law and Economics* 21, no. 1 (2021): 59–73, <https://doi.org/10.1007/s10784-021-09531-w>.

⁶⁴ Antoaneta Gueorguieva VASSILEVA, "Green Public-Private Partnerships (PPPs) as an Instrument for Sustainable Development," *Journal of World Economy: Transformations & Transitions* 2, no. 5 (2022)

⁶⁵ "Scaling Up the Mobilisation of Private Finance for Climate Action in Developing Countries," OECD, November 16, 2023, https://www.oecd.org/en/publications/scaling-up-the-mobilisation-of-private-finance-for-climate-action-in-developing-countries_17a88681-en.html.

⁶⁶ Rory Sullivan, "Three Priorities for Scaling Private Climate Finance," *SDG Action* (blog), November 6, 2024, <https://sdg-action.org/three-priorities-for-scaling-private-climate-finance/>.

The Political Urgency of Green Investment Law Based on NZE Fiqh Bi'ah Perspective

The urgency of legal politics in today's green investment climate is necessary. The legal politics referred to in this case is the official legal policy line⁶⁷ applied in the new law's provisions, the amendment of the old law, and the ideals and objectives of the state. The political approach to law becomes absolute as a condition for validity according to the ideal formal legal order and is enshrined in the rule of law. The choice of legal politics as a form of policy related to the norms applied, either in whole or in part, must undoubtedly be harmonised and not contradict the state principles contained in the provisions of the preamble to the 1945 Indonesian State Constitution.

The purpose of the state implementing policies is reflected in the need to create a desired and agreed upon system for the common good. Through an excellent legal system, government policies will be easily implemented based on fundamental needs from within society in general⁶⁸. Departing from these basic and urgent policy needs, the product of legal politics, one of which is the form of legislation, can be implemented. Hikmahanto Juwana theoretically categorises legal and political products into two distinct forms. The first is conservative policy products—regulations formed by the legislature and executive to shape a legal system that serves as a "tool of social engineering," structuring and guiding societal order. The second is the responsive policy products, where policy content material is based on empirical needs and realities as well as the dynamics of the development of changes occurring in society⁶⁹.

Through policy procedures, the state can create a strategic plan for shaping national legal politics. National legal development policies must always be driven by the fundamental goals of law: justice, certainty, and expediency. Adequately achieved objectives of the law will lead to the realisation of the state's objectives according to stipulated commitments⁷⁰. Thus, the urgency of the purpose of the law must be realised in efforts to develop national legal politics

⁶⁷ Mahfud MD. *Politik Hukum di Indonesia*. Jakarta: Rajagrafindo Persada, 2019.

⁶⁸ Mustafa Lutfi, *Politik Hukum Penerapan Syarat Negarawan Dalam Proses Seleksi Calon Hakim Konstitusi* (Program Studi Hukum Program Doktor Fakultas Hukum UII, 2023), 44, <https://dspace.uui.ac.id/handle/123456789/47577>.

⁶⁹ Hikmahanto Juwana, "Politik Hukum UU Bidang Ekonomi di Indonesia," *Jurnal Hukum* 1, No. 1 (2005): 24.

⁷⁰ Andrean Fernando, "Politik Hukum Peningkatan Investasi dan Dampaknya Terhadap Usaha Mikro Kecil dan Menengah," *Jurnal Lex Renaissance* 7 (2022).

based on social justice, economic welfare of the community, and benefit and safety in everyday life.

Policies for the economic development sector and sustainable green investment based on Net Zero Emission are vital in ensuring economic growth that can keep environmental sustainability intact. The policy concept focuses on integrating economic value and green investment based on environmental preservation to achieve net zero emissions. This approach provides benefits for environmental conservation and supports community welfare and sustainable economic growth without sacrificing environmental sustainability. In this context, economic value policies and green investments balanced with environmental utilization and conservation are urgent and crucial. Developing economic policies that pay attention to sustainability for a sustainable environment significantly improves the community's quality of life. By reducing the impact of pollution and environmental damage, people can enjoy clean air, decent water and a healthy environment⁷¹. In addition, it has positive implications for individual physical and mental health and can increase productivity and overall well-being⁷².

Economic value and green investment balanced with the environment can support sustainable management of natural resources. Practices such as sustainable agriculture and the use of renewable energy preserve the ecosystem and ensure the availability of resources for future generations; this is important because damage to environmental sustainability is a threat to economic life in the future⁷³. The focus of sustainable development policies encourages the private sector to continue innovating and investing in green technology. These innovations are expected to create more efficient and environmentally friendly products and services and open new business opportunities⁷⁴. For example, investing in renewable energy reduces carbon emissions and creates new jobs. This investment contributes to sustainable economic growth and investment.

⁷¹ United Nations Environment Programme, "Global Environment Outlook for Cities – GEO for Cities: Towards Green and Just Cities," November 2021.

⁷² Barbara Hoffmann et al., "SSPH+ | WHO Air Quality Guidelines 2021–Aiming for Healthier Air for All: A Joint Statement by Medical, Public Health, Scientific Societies and Patient Representative Organisations," accessed January 24, 2025, <https://doi.org/10.3389/ijph.2021.1604465>.

⁷³ See Julie Bélanger, and Dafydd Pilling. *The state of the world's biodiversity for food and agriculture*. FAO, 2019.

⁷⁴ "Final Report - The Economics of Biodiversity: The Dasgupta Review," GOV.UK, August 20, 2021, <https://www.gov.uk/government/publications/final-report-the-economics-of-biodiversity-the-dasgupta-review>.

Policies in the economic development and investment climate sectors focusing on sustainable environmental utilization and management will better adapt to climate change and other environmental risks, such as natural disasters and price fluctuations amid increasingly complex global challenges. Implementing environmentally friendly green economic and investment policies aligns with the Sustainable Development Goals (SDGs)⁷⁵ set by the United Nations. Sustainability⁷⁶ can contribute to global efforts to reduce poverty, improve well-being, and protect the planet⁷⁷. Integrating NZE-based economic sector policies and green investment is a strategic effort to achieve sustainable development. The urgency of a clear and targeted policy concept is a path of benefits that can support economic growth while ensuring that environmental conservation is always maintained for future generations. Green technological innovations and the integration of various renewable energy sources are key to achieving sustainable development goals and reducing the impact of climate change. So, efforts to achieve net zero emissions are not only limited to goals but are also necessary to bring long-term benefits to all human beings.

On the other hand, green investment has also become a significant focus of global efforts to achieve sustainable development and climate change mitigation. International legal frameworks and standards are important in encouraging and directing the investment climate in a more environmentally friendly direction. Countries worldwide, including Indonesia, are expected to develop policies and incentives to attract green investment. In the context of green investment, countries are expected to create policies that attract capital in the renewable energy and clean technology sectors. The commitment aims to provide legal certainty for investors and policy support for sustainability-focused projects. The principles of responsible investment (PRI) initiated by the United Nations encourage investors to consider environmental, social, and sustainable governance factors. International legal frameworks and standards also play a significant and vital role in directing green investment; through the Paris

⁷⁵ Dhiana Puspitawati et al., “The Design of Regulatory Reform in Aquaculture in Indonesia: Opportunities and Threats of the Implementation of SDGs in Fisheries Governance,” *AACL Bioflux* 15, no. 3 (2022): 1225–2206.

⁷⁶ “Renewable Energy and Jobs Annual Review 2020,” September 29, 2020, <https://www.irena.org/publications/2020/Sep/Renewable-Energy-and-Jobs-Annual-Review-2020>.

⁷⁷ “Transforming Our World: The 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs,” accessed January 24, 2025, <https://sdgs.un.org/2030agenda>.

Agreement, SDGs and UNFCCC mechanisms, countries are encouraged to create a conducive environment for green investment and strengthen global commitments to sustainable long-term value.

Legal political consensus must, therefore, be obeyed and implemented as a standard guideline in state life because the products of policies can serve as a basis for realising legal certainty. However, its effectiveness depends not only on their formulation but also on the good faith in its implementation, goodwill from policymakers, and collective consciousness. Therefore, to have a tangible impact, policies must be well-crafted—whether conservative, progressive, or strategic—and supported by a sense of collective awareness and obedience. When this collective consciousness drives policy implementation, legal frameworks naturally apply in the community⁷⁸. In other words, legal politics can be elaborated and applied correctly if the state accommodates the participatory public in formulating and determining laws. That is, the questions—what law was created for, what purpose it was created for, and then where it will go—indicate that the urgency of forming and replacing legal politics must follow societal needs and be capable of addressing emerging challenges.

In this context, legal politics is encouraged within the framework of sustainable green investment policy design, where these days, the green investment climate is the concern and focus of governments and countries worldwide to reduce carbon emissions. The green economy policy gives birth to green investment based on net zero emissions as a sustainable and environmentally friendly concept; this is undoubtedly one of the most effective ways as an alternative part of the solution for the benefit of ample capital support in accelerating sustainable development projects. Green investment is a socially responsible investment policy approach designed with a sustainable long-term investment model to save the environment. Extreme climate change has a significant ecological damage affecting almost every aspect of life.

This phenomenon can threaten all ecosystems and human life at the local, national, and global levels⁷⁹. In response to climate change, the international community began to form various international forums until 1992, when a

⁷⁸ Mustafa Lutfi And Aditya Prastian Supriyadi, “Politik Hukum Pemulihan Ekonomi Nasional Akibat Pandemi Covid-19 Perspektif Konstitusi Ekonomi,” *De Jure: Jurnal Hukum & Syariah* 13, No. 2 (2021): 203–210.

⁷⁹ Anders Bjørn, Shannon Lloyd, And Damon Matthews, “From the Paris Agreement to Corporate Climate Commitments: Evaluation of Seven Methods for Setting ‘Science-Based’ Emission Targets,” *Environmental Research Letters* 16, No. 5 (2021): 054019, <https://doi.org/10.1088/1748-9326/abe57b>.

framework Earth Summit was born in Rio de Janeiro, Brazil: UNFCCC (United Nations Framework Convention on Climate Change). The convention was convened to take several measures to suppress greenhouse gases in the atmosphere. However, the UNFCCC does not provide details of climate change regulations or set firm limits on binding greenhouse gas emissions for each country; instead, it serves as a basis for negotiating multilateral solutions to greenhouse gas effects⁸⁰.

Climate change in the era of technological, economic, and geopolitical development in modern times is the focus of attention of countries worldwide. Net zero emissions are more challenging than simply mitigating climate change⁸¹ or reducing greenhouse gas emissions by 50% or 80%⁸². Conversely, realising net zero emissions must involve decarbonisation in all parts of the economy⁸³.

TABLE 2. Comparison of Green Investment Laws and Politics Between Countries in Responding to Net Zero Emissions

Country	Regulation	Content Material	Superiority	Recommendations
Japan	Green Bond Guidelines & Climate Transition Finance Guidelines	Guidelines for issuers, investors, and underwriters in meeting green investment standards. Providing a green transition bond framework for the industrial sector in reducing carbon emissions.	Encouraging low-carbon technology innovation and providing legal certainty for green investors.	Developing similar regulations to support green investment and set carbon transition standards.
China	New Environmental	NEPL encourages polluting industries	Suppressing industrial	Revising the Environment Law

⁸⁰ Bela Titis Panggabean, “Kesiapan Indonesia Dalam Memenuhi Nationally Determined Contribution (Ndc) Sebagai Implementasi Paris Agreement Terkait Restorasi Lahan Gambut,” *“Dharmasisya” Jurnal Program Magister Hukum FHUI* 1, No. 1 (2021), <https://scholarhub.ui.ac.id/dharmasisya/vol1/iss1/21>.

⁸¹ Ghislain Dubois Et Al., “It Starts at Home? Climate Policies Targeting Household Consumption and Behavioral Decisions Are Key to Low-Carbon Futures,” *Energy Research & Social Science* 52 (2019): 144–158, <https://doi.org/10.1016/j.erss.2019.02.001>.

⁸² Myles R. Allen et al, “Net Zero: Science, Origins, And Implications,” *Annual Review of Environment and Resources* 47, no. 47 (2022): 849–887, <https://doi.org/10.1146/annurev-environ-112320-105050>.

⁸³ Steven J. Davis et al., “Net-Zero Emissions Energy Systems,” *Science* 360, no. 6396 (2018): eaas9793, <https://doi.org/10.1126/science.aas9793>.

Country	Regulation	Content Material	Superiority	Recommendations
	Protection Law (NEPL) & Circular Economy Promotion Law (CEPL)	to switch to environmentally friendly technologies. CEPL provides tax incentives for clean energy and recycling technologies.	pollution and encouraging companies to invest in clean energy and circular economy.	to support the green transition and providing tax incentives for environmentally friendly industries.
USA	Inflation Reduction Act (IRA)	Huge investments in clean energy, electric vehicles, and energy efficiency.	Attracting large investments in green technologies and accelerating the clean energy transition.	Providing attractive fiscal incentives for investors in green energy and electric vehicles

Source: *Personal Processed Data (2025)*

Indonesia can adopt green investment policies from these countries by establishing a legal framework that supports the issuance of green bonds and establishing carbon transition guidelines, such as the Green Bond Guidelines and Climate Transition Finance Guidelines, as in Japan. In addition, Indonesia can also revise the Environment Law and create new laws to encourage companies to adopt environmentally friendly technologies, as China has done through NEPL. The government can also offer tax incentives for industries switching to clean energy adopted from China's CEPL and introduce subsidies for low-carbon technologies. Indonesia can also attract massive investment into the electric vehicle and renewable energy sectors, with fiscal incentives to support the development of green technologies, such as in the US with IRAs. Indonesia can adopt an approach that suits domestic conditions, needs, potentials, and challenges.

Climate change and other significant challenges cannot be addressed by efforts to increase the innovation capacity of society in general, nor by the development and diffusion of individual technologies. On the contrary, there is a need for a long-term transition to a more sustainable system of production and consumption across the economy⁸⁴ that involves the massive diffusion of new technologies and practices and the gradual elimination of existing systems,

⁸⁴ Emma Sonnier and Alexander Grit, "A Narrative for Circular Economy in Cities: Conditions for a Mission-Oriented Innovative System," *City and Environment Interactions* 16 (2022): 100084, <https://doi.org/10.1016/j.cacint.2022.100084>.

resulting in unintended environmental impacts and socio-economic problems⁸⁵.

As a form of government policy effort to guarantee the constitutional and fundamental rights of citizens in maintaining life⁸⁶ and obtaining a quality living environment, the government ratified the Paris Agreement in 2016 and formulated it in the provisions of Law No. 16 of 2016. The commitment aims to reduce greenhouse gas emissions by 29% (twenty-nine per cent) under Business as Usual (BAU), even up to 41% (forty-one per cent) if supported internationally with a target achievement of 2030⁸⁷.

The government has implemented changes and made various laws and regulations that support climate change mitigation, especially in achieving Indonesia's Nationally Determined Contribution (NDC) target. Indonesia implements climate change mitigation and adaptation to achieve NDC targets and reduce Emissions Per Sector (Mton CO₂e)⁸⁸. Adaptation and mitigation to extreme climate change are essential for mitigation training activities to reduce greenhouse gas emissions and increase carbon sequestration and storage / strengthening carbon stocks. Meanwhile, climate change adaptation is carried out by adjusting actions to anticipate these impacts by building anticipation strategies and taking advantage of profitable opportunities through limiting greenhouse gas emissions, joint implementation, clean development mechanisms, Clean Development Management (CDM), and emission trading.

Through green economy policies, the commitment to reduce carbon emissions is the best choice for implementing a development model that reduces the impact of emissions from deforestation and degradation. The concept of green economy in its dynamics is designed to support the welfare of human life and efforts to maintain sustainability with a sustainable environmental ecosystem⁸⁹. The policy has become a widely discussed discourse, considering that the concept emerged as an alternative solution to suppress damage to environmental ecosystems due to the economic system run by humans. The green economy is part of sustainable development, and its existence is expected

⁸⁵ Sam Fankhauser et al., "The Meaning of Net Zero and How to Get It Right," *Nature Climate Change* 12, No. 1 (2022): 15–21, <https://doi.org/10.1038/s41558-021-01245-w>.

⁸⁶ See Article 28a of the 1945 Constitution of the Republic of Indonesia

⁸⁷ Nur Masripatin, et. al, *Strategi Implementasi NDC (Nationally Determined Contribution)*. Jakarta: Dirjen Pengendalian Perubahan Iklim KLHK, 2017, p. 8.

⁸⁸ UNFCCC. *The First Nationally Determined Contribution Republic of Indonesia*. UNFCCC, 2016.

⁸⁹ Nurhayati Nurhayati. "Memahami Konsep Syariah, Fikih, Hukum dan Ushul Fikih." *Jurnal Hukum Ekonomi Syariah* 2, no. 2 (2018): 124-134.

to solve the problems of exosystem damage caused economically by the actions or behaviour of humans themselves, which are increasingly uncontrolled.

The control function is essential to preserve the environment by optimising the role of policies and regulations carried out by policymakers and all stakeholders to counteract the impact in the era of globalisation and free markets, where foreign capital investment hegemonises and swallows local entrepreneurs. Therefore, the urgency of green economy policies and green investment must run harmoniously, cyclonic with the goal of sustainable, environmentally sound development to overcome ecological damage from the impact of climate change optimisation of the use of new and renewable energy⁹⁰.

Optimisation and utilisation of sustainable environmental management align with Islamic economic principles or systems,⁹¹ aiming to balance and utilise to improve the quality of human life and nature⁹² as well as the well-being of life together. The above principles are highly relevant to the Islamic economic system, which is oriented towards the welfare, balance, and well-being of the people and nature.

Kamali⁹³ stated that the content of the Qur'an is comprehensive, discussing nature, the environment, and the creation of the earth in great detail. The Quran and Hadith of Prophet Muhammad teach us to maintain, preserve, protect, and make good use of the environment. Therefore, protecting the environment is critical; the expression describes it as maintaining cleanliness i.e. The environment is part of faith, and its purpose is to protect the earth and the environment from damage caused by human activities. Environmental protection is not only related to the material dimension but also to the moral and spiritual dimensions. Islam, as the religion of rahmatan lil Alamin, not only regulates the relationship of man with man but also the relationship of man with nature. Islam's prohibition against tabdzir and israf warns people not to

⁹⁰ Badan Koordinator Penanaman Modal, "Diskusi Interaktif: Mewujudkan Investasi Perubahan Iklim Perkembangan, Tantangan Dan Peluang Pada Festival Iklim 2018: Arah Dan Kebijakan Green Investment", Paparan Green Investment.

⁹¹ Azwar Iskandar And Khaerul Aqbar, "Green Economy Indonesia dalam Perspektif Maqashid Syari'ah," *Al-Mashrafiyah: Jurnal Ekonomi, Keuangan, dan Perbankan Syariah* 3, no. 2 (2019): 83–94.

⁹² Ifdlolul Maghfur, Fiqh Industri Lingkungan (Studi: Maqhasid Al-Syari'Ah Barokah). " *Jurnal Mu'allim* 1, no. 1 (2019): 175-198. <https://doi.org/10.35891/ml.v8i1.363>.

⁹³ Mohammad Hashim Kamali, "Environmental Care in Islam: A Qur'anic Perspective." Amman, Jordan: Royal Aal al-Bayt Institute for Islamic Thought: 15th General Conference 2010 September 27-29, pp. 2-31 [Online]. Accessed: <http://www.aalalbayt.org/EnvConference/002.pdf> [2011 May 3]

overdo it⁹⁴. However, sometimes, many people ignore it, leading to the accumulation of garbage and damage to the climate and ecological ecosystems. In reality, the current system of market mechanisms has caused people to exploit nature to satisfy their desires without thinking about the lives of future generations.

Islam emphasises its ummah to preserve and protect the environment, as written in the Qur'an surah al-Anbiya verses 35-39. The scholars and mufasssir provide essential and new understanding in managing and preserving the environment based on the legal principles of fiqh bi'ah in the teachings of Islamic cosmology. On the other hand, in social life, fiqh bi'ah is less popular with the concept of green economy. In contrast, for centuries, the Qur'an and Hadith have been evident in providing doctrine and teachings that explain the relationship of Islam with a sustainable environment. Similarly, fiqh al-bi'ah and green economy have many values in common⁹⁵. These values include the concept of self-management and the environment, human development and empowerment, nature-oriented to benefit welfare, and the way of salvation.

Maintaining sustainability, harmony, and balance with nature is the obligation of all humans, and utilising wind as an energy source and other ecosystems is sunnatullah; all these provisions are also included in the provisions (Q' al-A'raf [7]: verses 56-58), including the obligation to protect land and sea (QS al-Rum [30]: verses 41-42), and the prohibition of damaging the land and the direct impact that humans feel (QS) al-Rum [30]: vv. 41-42). Environmental conservation is the core of Islamic teachings; the provisions of the Qur'an that talk about the obligation to protect the environment, in general, are written in 459 verses (QS al-Baqoroh: verses 11, 22, 27, 60, 251) (QS al-Mu' minun: verse 71), (QS al-A'raf: 100), (QS al-Imron: verses 109, 129) and several hadiths. Meaningfully, there is a correlation and relevance related to the compatibility of the principles of utilisation, management, and protection of the environment (*hifz al bi'ah*) in the verses of the Qur'an with the prohibition of Allah SWT not to damage the environment. Thus, the harmony between fiqh bi'ah with the principles of green economy and green investment based on net zero emissions is an integral unity that strengthens each other to care for the earth sustainably for the sake of cross-generational sustainability. So, in the

⁹⁴ Musari, Khairunnisa, et al. *Islam dan Green Economics: Diskursus Konsep Islam Tentang Ekonomi Hijau Serta Pembangunan Berkelanjutan di Indonesia-Jejak Pustaka*. Jakarta: Jejak Pustaka, 2022.

⁹⁵ Ika Yunia Fauzia, "Urgensi Implementasi Green Economy Perspektif Pendekatan Dharuriyah dalam Maqashid Al-Shariah," *Jurnal Ekonomi dan Bisnis Islam* 2, no. 1 (2016): 87-104.

practice of state life, a policy-oriented aspect of benefit is necessary for a nation's civilisation.

Principally, the portrait of green investment policies in several countries, including Indonesia, prioritises sustainability and environmental preservation. The theoretical foundation of the Green Constitution is considered relevant because it includes the principles of sustainability in a country's constitution, and *Fiqh Biah* is an approach in Islamic law that emphasises the importance of protecting and preserving the environment. *Fiqh Biah*, which comes from Sharia principles, emphasises the importance of maintaining the balance of the ecosystem and protecting the environment as part of human moral and ethical responsibility.⁹⁶

In implementing green investment policies, this principle can be seen in various programs that support the development of renewable energy and sustainable agricultural practices. In Indonesia, the application of *Fiqh Biah* can be seen in renewable energy policies, such as developing solar and wind power plants. In addition, the Indonesian government has issued Presidential Regulation No. 22 of 2017 concerning the National Energy General Plan, which aims to increase the proportion of renewable energy in the energy mix.⁹⁷ Several Islamic financial institutions⁹⁸ have also begun to support projects that align with the principles of *Fiqh Biah*, such as financing for organic farmers and environmentally friendly projects. In countries like Malaysia and Brunei Darussalam, *Fiqh Biah* is also applied through green investment policies. Malaysia, for example, has integrated sustainability principles into its national development vision, including in the agriculture and forestry sectors. This policy is supported by Islamic financial institutions that fund projects based on *Fiqh* principles⁹⁹. For example, in other countries such as Ecuador and South Africa that have also adopted explicit Green Constitutions, Ecuador's constitution¹⁰⁰ grants nature the right to be protected and restored, as well as creating a strong legal framework to support green investment policies and encourage investment in projects focused on environmental conservation such as reforestation and renewable energy.

⁹⁶ Yusuf Al-Qaradawi, *Fiqh al-Biah wa al-Muhafazah 'Ala al-Bi'ah*, Cairo: Maktabah Wahbah, 1994.

⁹⁷ Presidential Regulation No. 22 of 2017 concerning the National Energy General Plan.

⁹⁸ Islamic Financial Services Board. (2020). "Islamic Finance and Green Economy.

⁹⁹ See Burhanudin Harahap, Tastaftiyan Risfandy, and Inas Nurfadia Futri. "Islamic law, Islamic finance, and sustainable development goals: A systematic literature review." *Sustainability* 15, no. 8 (2023): 6626.

¹⁰⁰ Ecuador. *Constitution of the Republic of Ecuador*. (2008). "Rights of Nature."

Implementing the theoretical foundation of the Green Constitution and *Fiqh Biah* in *hijra* investment policies in Indonesia and other countries shows that sustainability for environmental conservation is an urgent matter, so it is necessary and can be strengthened through an approach based on ethical and legal values. In Indonesia, these principles can be applied to the constitution's renewable energy policies and environmental protection. Meanwhile, other countries such as Malaysia and Ecuador continue to develop legal frameworks that support green investment policies by adopting sustainability principles in their politics, laws, and constitutions. Thus, the importance of integration and collaboration between legal principles and green investment policies can positively impact environmental sustainability in the community.

Conclusion

Based on the background description above, the political urgency of Green Investment Law based on Net Zero Emission is analysed with 2 (two) optical theories: Green Constitution and *Fiqh Bi'ah*. In Article 33, paragraph (4) of the 1945 Constitution, the substance of the green constitution is the legal basis for realising green investment laws in Indonesia. The Green Constitution places the idea of ecological protection in every policy (including economics) useful in reducing gas emissions. However, to truly realise an effective green investment in Indonesia, various technical regulations are needed to support green economy practices with zero-emission targets. Interestingly, before the concept of net zero emissions became popular, the Qur'an taught us the importance of sustainable management and use of the environment. It shows that *Fiqh Bi'ah* and the principles of green economy, including green investment, support each other in our efforts to care for the earth. It is essential not only for us today but also for generations to come. Thus, policies that focus on general benefits, including in the economic and environmental spheres, are essential to advancing civilisation and the welfare of nations. It confirms that in running the country, prioritising policies that support environmental sustainability is a must for the expected progress.

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Justice is an essential part of the environmental discussion

—Inger Andersen,
UN Environment Programme Executive Director

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The authors state that there is no conflict of interest in the publication of this article.

Generative AI Statement

None

Notification

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