



Type: **Research Article**

Human Rights Aspect in the Indonesian Energy Transition: The Challenges of Promoting the Right to a Clean, Healthy and Sustainable Environment

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ABSTRACT

Keywords

Energy Transition

Renewable Energy

Indonesia

Regulation

The Right to Environment

Indonesia's Constitution has recognised and guaranteed the right to a clean and healthy environment. Recognition of the right is even more relevant after the United Nations adopted the resolution to recognise it as a part of human rights in 2022. This paper will discuss the recognition and guarantee of human rights in the Indonesian legal framework on energy transition. As one of the responses to the climate change phenomenon, the energy transition should mainstream the human rights aspects. Doctrinal legal research methods are adopted in this study with a statute and conceptual approach. This study aims to map the problems of Indonesia's energy transition legal framework from a human rights perspective. The analysis results show at least three problems raised in recognising the right to a clean, healthy and sustainable environment in the Indonesian legal framework on energy transition: sectoral egos, incompatible legal instruments, and dependence on fossil energy.

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1. Introduction

Climate change (CC) has become a global phenomenon that requires every country to adapt, mitigate, and overcome its environmental impact. As a country that has ratified the Paris Agreement through Law Number 16 Year 2016, Indonesia is bound by a commitment to contribute to reducing carbon dioxide emissions. Based on the enhanced National Determined Contribution (NDC) in 2022, Indonesia is committed to reducing emissions by 31,89% without assistance (compared to 29% in the 1st NDC) and 43,20% with financial, technology transfer and capacity-building assistance from the international society (compared 41% in the 1st NDC)



([Government of Indonesia, 2022](#)). This commitment needs to be proven by adopting policies that support emission reductions nationally.

Furthermore, one of the most recent proofs of the Indonesian Government's (GoI) commitment is establishing Presidential Regulation Number 112 Year 2022 on the Acceleration of Renewable Energy Development for the Electricity Supply (PRRE). Moreover, the GoI policy has received a positive response from various circles because it is considered a positive step in the energy transition ([Indonesian Centre for Environmental Law, 2022](#)). The energy sector is one of the largest contributors to emissions nationally. Data released in 2021 by the Ministry of Environment and Forestry shows that 34% of emissions come from this sector ([Government of Indonesia, 2021](#)). Therefore, efforts to reduce emissions from the energy sector need to be appreciated positively despite the shortcomings that are still contained in the substance of the regulation, especially from the perspective of human rights.

The discussion of the energy transition from the aspect of human rights is relevant to be conducted, especially in developing countries such as Indonesia. Therefore, in the energy transition process, it is mandatory to prioritise energy justice to ensure that public rights are not ignored. Several scholars have studied energy transition, energy justice, and human rights. Siciliano et al. ([Siciliano et al., 2021](#)) discuss the principle of justice in the energy transition in the context of Vietnam. Furthermore, Heffron ([Heffron, 2022](#)) also analysed dozens of cases related to energy justice from various countries and then conceptualised them for practical implementation. Research on human rights, especially the right to a clean, healthy and sustainable environment (RCHSE), was conducted by Lewis ([Lewis, 2014, 2018](#)), who contextualised the CC as a global phenomenon.

Furthermore, in the Indonesian context, several study results have been published, among others, by Sabubu ([Sabubu, 2020](#)), with the focus of the study concluding that coal-based power plant operations still need to meet the RCHSE. Moreover, another study by Sharaningtyas ([Sharaningtyas, 2016](#)) and Utami & Primawardani (Utami & Primawardani, 2021) discussed the RCHSE in Indonesia. The last two studies are indirectly related to the CC but remain relevant to this paper. Although studying the energy transition from the perspective of human rights in Indonesia is not novel, this paper offers three different novelties from the previous study. First, this study will analyse the Indonesian Legal Framework on Energy Transition. Second, the focus of the discussion on the RCHSE has become relevant because, in July 2022, the UN General Assembly adopted a resolution that declared the right as a part of human rights ([United Nations, 2022a](#)). Last but not least, this study will also discuss the challenges in promoting the right to a clean, healthy and sustainable environment in the Indonesia renewable energy transition.

Following the introduction section, the next step will be to discuss the research methods. Furthermore, in the discussion part, this paper will discuss the development of the right to a clean, healthy and (sustainable) environment in the international legal regime and Indonesian national law. Thus, the next section will be explained the recognition of the RCHSE within the legal framework of the transition from fossil energy to renewable energy in Indonesia. In the last part of the discussion, this paper will analyse the challenges in promoting the RCHSE in the Indonesia renewable energy transition. Finally, this paper will deliver the conclusion in the last section. This study is expected to dissect the problems of the energy transition from the perspective of human rights, especially the RCHSE.



2. Research Methods

This study adopted doctrinal legal research with a statute and conceptual approach. Doctrinal legal research methodologically combines analysis, interpretation, and debate about legal norms and institutions ([Taekema, 2021](#)). Furthermore, the article seeks to build a theoretical framework and analyze the consequences of legal implementation ([Davies, 2020](#)). Doctrinal Research is carried out by logically reasoning the law or making rational conclusions based on observation and analysis of propositions derived from legal institutions ([Smits, 2017](#)). Due to the application of doctrinal legal research methods, this study has discussed and analysed the proper application of legal doctrines through analysis of authoritative or pinsip texts, doctrines, and legal cases ([Smits, 2017](#)).

Conventionally the sources used by legal scholars in doctrinal research are laws, case laws, legal histories, and adopted regulations ([Gawas, 2017](#)). This study analysed the legal instruments adopted by Indonesian Government consists of Law (Indonesian: undang-undang), Government Regulation, and Presidential Regulation, which directly regulate energy transition in Indonesia. Therefore, this research limits its analysis to the Law Number 30 Year 2007 on Energy (Energy Law), Government Regulation Number 79 Year 2014 on National Energy Policy (NEP), Presidential Regulation Number 22 Year 2017 on National Energy General Plan (NEGP), and PRRE. The analysis was conducted descriptively and analytically by elaborating on human rights aspects in the Indonesian legal framework in energy transition, specifically the RHCSE.

Analysis and discussion are placed within the framework of recognising the RCHSE in legal instruments that form the basis of the energy transition process in Indonesia. Therefore, this research methodologically applies more than just the legal instruments and the literature of legal disciplines in its analysis. References from other fields of science are also employed to support the author's arguments. Thus, although this study adopted doctrinal legal research, the other discipline remains needed to explain the legal phenomena that occurred in the analysis and conclusion-making.

3. Discussion

In this section, the paper will divide the discussion into three parts: developing a discourse on the RCHSE. Furthermore, the analysis continues with a discussion of the legal framework of the energy transition process in Indonesia. Finally, this paper will discuss the problems and challenges raised in Indonesia's legal framework for the energy transition, particularly the recognition of the RHCSE. The discussion is important to be put forward in academic discourse in Indonesia because discussions about the energy transition rarely involve human rights aspects. Industrial aspects and patterns of relationships between producers and consumers are always prioritised regarding energy commodities.

3.1. The Development of the Right to a Clean, Healthy and Sustainable Environment

The United Nations General Assembly (UNGA) on July 28, 2022, marked a historical moment with the adoption of resolution Number A/76/L.75, which recognised the RCHSE as a human right ([United Nations, 2022b](#)). The UNGA resolution is a continuation of the resolution adopted by the UN Human Rights Council (UNHRC) in October 2021 ([United Nations, 2021](#)). Although the two resolutions are not binding on the UN member states, it is a big leap for human rights development amid CC. Recognition of the RCHSE has yet to be unanimously accepted by all UN members, member states such as China, India, Japan, and



Russia chose to abstain ([Limon, 2022](#); [Tang & Spijkers, 2022](#)). In addition, the form of recognition is also inseparable from critics who consider that RCHSE is a precondition to enjoying other human rights, not enjoying the environment ([Tang & Spijkers, 2022](#)). Therefore, the existence of RCHSE is more focused on humankind enjoying their rights rather than on environmental conservation.

UNGA and UNHRC resolutions are soft-law instruments with legal relevance to recognising human rights. Terpan ([Terpan, 2015](#)) argued that the legal relevance of soft laws is related to their adoption in the implementation of the law, for example, the basis for judges to make decisions. Therefore, although not legally binding, the two resolutions are crucially relevant as a legal basis to observe the development of the RCHSE at the global level. The positive impact of the UN HRC Resolution recognizing the RCHSE is the emergence of a wave of optimism to protect the environment through climate change litigation and judges' rulings in favor of human rights and the environment ([Tang & Spijkers, 2022](#)).

The development of the conception of the RCHSE can be traced through several international legal instruments. The Acceptance of the Universal Declaration of Human Rights (UDHR) in 1948 was one of the important milestones in adopting human rights by many countries worldwide. However, this instrument has not explicitly mentioned environmental rights as part of human rights ([Hiskes, 2009](#); [Knox, 2017, 2020](#)). On the other hand, human rights related to the environment are part of the economic and social rights listed in thirteen articles in the UDHR ([Hiskes, 2009](#)). Furthermore, another international legal instrument is the International Covenant on Economic, Social and Cultural Rights (ICESCR) which was adopted in 1966 and came into force effectively in 1976 ([United Nations, 1966](#)). Similar to UDHR, this international covenant does not mention the right to the environment as an independent human right ([Fung, 2006](#)). Nevertheless, some of the provisions in articles 11 and 12, mainly related to a decent standard of living related to health, food, and work, can be a foothold in the conceptualisation of the RCHSE.

The Stockholm Declaration is the first international document to recognise the interrelationship of human rights principles with the environment ([Atapattu, 2002](#); [Lewis, 2018](#)). The declaration contains twenty-six principles linking aspects of human rights to the environment ([Yanuarsi, 2019](#)). The First Principle contained in this declaration affirms that the environment is an integral part of the quality of human life ([United Nations, 1972](#)). In addition, the declaration also successfully initiated a multilateral dialogue between UN member states and connected the quality of human life with the environment ([Bernstein & Vicente, 2022](#)). Nonetheless, this declaration has not significantly led the countries of the world to recognise the existence of the right to a clean environment ([Knox, 2019](#); [Pointon & Bell-James, 2019](#)). The cause is partly because this declaration is not legally binding for UN member states ([Fung, 2006](#)). In subsequent developments, the Rio Declaration of 1992 became an international legal instrument that greatly influenced the recognition and interconnectedness between human rights principles and the environment ([Knox, 2019, 2020](#)). The Rio Declaration also introduces the concept of sustainable development as an environmentally friendly development paradigm while introducing the right to sustainable development ([Bazylińska-Nagler, 2019](#)). The principles of human rights and the environment contained in the Rio Declaration also provide the basis for developing the RCHSE.

Other international legal instruments that influence the development of the RCHSE are the United Nations Framework Convention on Climate Change (UNFCCC) and derived agreements such as the Kyoto Protocol and the Paris Agreement. The ICESCR and the Stockholm Declaration have significantly contributed to developing the right to the



environment, especially in clean and healthy aspects. The UNFCCC provides a new perspective on this right, especially in CC, namely the sustainability aspect. Sustainable development endorsed by the UNFCCC is integral to providing a framework for cooperation between countries to carry out development without neglect (Wibisana, 2017). The CC is also a catalyst for the need for recognition and fulfilment of the RCHSE by countries around the world (Knox, 2020). Recognition of the RCHSE is contained in the regional soft law instrument, Article 28(f) of the ASEAN Human Rights Declaration (ASEAN Secretariat, 2013). Furthermore, in Articles 35-37, there is also a right to development that encourages ASEAN member states to adopt policies that support and promote human rights without sheltering the lack of development (Pisanò, 2014).

In the Indonesian context, the RCHE have been recognised and regulated in Article 28H (1) of the Indonesian Constitution, Article 9 paragraph (3) of Law Number 39 Year 1999 on Human Rights (Human Rights Law), and Article 65 Law Number 32 Year 2009 on Environment Protection and Management (Environment Protection and Management Law). In addition, as a country that ratified the ICESCR in 2005, Indonesia has also recognised the right to the environment as an important factor in determining the quality of human life. Indonesia is also among the countries supporting UNGA Resolution Number A/76/L.75. Based on these legal instruments, Indonesia has recognised the RCHE. However, in the UNGA resolution of July 28, 2022, there is one additional word in the conception of this right: sustainable. This word is not recognised in the Indonesian legal framework's conception of the right to a good and healthy environment. The word sustainable is not inherent in the conception of human rights but is adopted in regulating natural resource management. In the discourse of legal application, for example, it is known as the adoption of the Rio Declaration, one of which contains the principle of strict liability as the basis for the judge's decision in the Bandung District Court case in the decision of a landslide case in Mandalawangi, Garut, West Java (Imamulhadi, 2013).

The CC brings about a major change in the conception of human rights related to the environment. Recognising and promoting the RCHSE is a logical consequence of human efforts to maintain life. Adapting to CC, such as transitioning fossil-based energy to renewable energy, also includes efforts to improve the quality of human life. Therefore, recognising and promoting human rights cannot be separated from the process. The existence of PRRE is a positive step of GoI that requires a deeper analysis, especially from the aspect of the right to the environment. A transition that regards energy as a commodity and does not pay attention to human rights will only add to the public's problems and reject and destroy the ecology (Heffron, 2022).

Furthermore, this article will analyse the recognition of the RCHSE in the Indonesian legal framework on energy transition. The issue is closely related to the development of the right to the environment in the legal instruments governing the energy transition. Fossil and renewable energy continue to utilise nature and environmental conditions to produce energy used by humankind. Thus, as part of efforts to overcome the impacts of CC, the energy transition must recognise and protect human rights, especially the RCHSE.

3.2. Recognition of the Right to a Clean, Healthy and Sustainable Environment in Indonesian Legal Framework on Energy Transition

The energy transition can simply be interpreted as the economic turnover of fossil-based fuels towards low-carbon or renewable energy sources (Heffron, 2021). Each country differs in defining renewable energy, geographical and even political conditions greatly influence the definition of renewable energy in national jurisdictions (Crossley, 2019). Nationally, Indonesia defines renewable energy terms in Article 1 point 6 Law Number 30 Year 2007 on Energy.



Resources such as geothermal, wind, bioenergy, sunlight, and water categorise as renewable energy in Indonesia's jurisdiction.

The fundamental question that will be elaborated in this section is the recognition of aspects of human rights, namely the RCHSE in the Indonesian legal framework on energy transition. Furthermore, to answer this question, it is necessary to understand the interconnection between human rights and the CC. The phenomenon of the CC has factually made natural conditions increasingly incompatible for humankind to enjoy their human rights (Boyle, 2015; Cima, 2022). However, this opinion is still on the debate stage because the impact of the CC is futuristic. Thus, the harm to human rights remains uncertain (Bell, 2013). However, according to Blau (Blau, 2017), economic, social, and cultural rights, especially rights to the environment, have a wide range of dimensions and futuristic times. Humankind's need for a clean and sustainable environment is not only for one country but also related to another. In addition, the need is for one generation and future generations. Without the recognition and protection of the RCHSE, the fulfilment of other human rights in the future will be threatened.

In 2009 the UNHRC recognised that no UN international treaties stated a connection between environment and human rights (United Nations, 2009). Nevertheless, proper or poor environmental conditions greatly affect the fulfilment of human rights, such as the right to life, food, and water. Furthermore, in the latest developments, the connection between human rights and the environment, especially CC, has been recognised by the UN in its various official documents (Boyle, 2015). CC conditions generally cause vulnerability to human rights because not every human being can deal with the impacts of CC without state intervention (Barnett, 2009). Therefore, the state's role in adopting laws is crucial in keeping human rights violations from occurring due to CC (Voigt, 2008). The energy transition to reduce carbon dioxide emissions is a gigantic step taken by all countries that ratified the Paris Agreement, including Indonesia.

The main legal instrument in the energy transition in Indonesia is the Energy Law adopted in 2007. Article 2 of the law lists several energy management principles, including sustainability, community welfare, and preservation of environmental functions. The law also stipulates that renewable energy is one of the energy resources besides fossil energy. One of the substances regarding human rights is contained in Article 9, paragraph (1), which is the right of everyone to obtain energy. However, in the explanation, there is no intention of the right to energy. A similar arrangement is also contained in the NEP, a derivation regulation of the Energy Law. Human rights aspects, especially the RCHSE, have yet to be fully recognised in this regulation. Nevertheless, it must be admitted that this regulation regulates environmental protection and preservation quite well. Article 19 of the NEP explains that environmental aspects must be prioritised in national energy management. However, the formulation of the article does not guarantee the right to the environment, such as the RCHSE. The right must be understood to guarantee that human entities can live in a healthy, clean, ecologically viable and sustainable manner (Knox & Pejan, 2018).

Furthermore, the legal instrument on which the energy transition is based is the NEGP, passed in 2017 (Indonesia, 2017). As a derivation regulation from NEP, the substance of NGEPP is not much different. This paper argues that the NGEPP contains a problematic substance and does not regulate human rights, especially the RCHSE. In addition, the principle of energy development still adopted fossil energy, such as gas and coal, as primary energy sources (Indonesia, 2017). Furthermore, the clause will further aggravate the guarantee of the RCHSE as stipulated in the Indonesian Constitution and Human Rights Law. Moreover, this regulation also considers the environmental aspect as a supporting policy separate from the main energy



policy. The separation negates the relevance between human rights, the environment, and energy policy. Considering energy as a sector that is not connected to human rights and the environment will further aggravate CC's impact ([Wewerinke-Singh, 2022](#)).

Similar conditions are also found in the PRRE, which did not provide space for recognition of RCHSE. Article 3, paragraph (3) of the PRRE is firm enough to mandate the acceleration of the termination of the operational life of coal-based power plants. However, in paragraph (4), there are exceptions for some types of coal power plants. Thus, the operation of coal power plants in Indonesia will be continued for short periods. Furthermore, the PRRE still opens up operating opportunities for coal power plants included in the development plan, integrated with certain industries, are committed to reducing greenhouse gas emissions by at least 35% within ten years, and operate until 2050 at most. Therefore, the PRRE still opens up opportunities for coal power plant operations as long as it meets the requirements.

Various groups appreciate the adoption of the PRRE as a policy that will encourage an increase in renewable energy in the national energy mix ([Reuters, 2022](#)). However, the regulation also allowed the coal power plant to continue operating until 2050. Furthermore, this condition is quite detrimental to the Indonesian public because the promise of energy transition needed to be plenary to be implemented. Moreover, as part of climate policy, the PRRE also did not adopt a human rights approach in its substance. Access to energy, and distribution, including energy-generating mechanisms, are closely related to human rights ("Routledge Handb. Hum. Rights Clim. Gov.," 2018). Disregarding the recognition of the RCHSE in the energy transition regulations will result in recognising and implementing other human rights ([Cima, 2022](#)). In addition to the human rights aspect, legal instruments governing the energy transition also need to pay attention to the ecological ability of nature to accommodate emissions or pollution ([Wewerinke-Singh, 2022](#)). Nature as a place where man lives must be preserved so that man is able to obtain his rights, and the state is obliged to fulfil them.

Recognition of human rights, especially the RCHSE, is a basic element for creating climate justice ("Routledge Handb. Hum. Rights Clim. Gov.," 2018). Therefore, the state's role is needed to ensure the recognition of human rights in energy transition policies that are part of efforts to realise climate justice. However, Indonesia's energy transition legal framework cannot guarantee the implementation the RCHSE. According to [Wewerinke-Singh \(2022\)](#), that neglect of human rights in the energy policy-making process can result in policies that are not in the public interest of rightsholders.

3.3. Challenges in Promoting the Rights to Clean, Health and Sustainable Environment in Indonesian Energy Transition

In the previous section, this paper has explained the recognition of the RCHSE in the Indonesian legal framework on energy transition. However, neither the Energy Law, the NEP, the NGEP, nor the PRRE expressly reaffirms these human rights in the energy transition process. The last mentioned legal instrument even provided an opportunity for coal-based power plant operations until the end of 2050. However, the policy is not in line with the emission reduction ambitions of the Enhanced NDC adopted by the GoI in 2022 ([Government of Indonesia, 2022](#)). Therefore, in this section, the idea of promoting the RCHSE in the legal instruments governing the energy transition in Indonesia will be examined.

Indonesia has hosted the G20 annual meeting in 2022, one of the documents produced specifically related to the energy transition is the Bali Compact. The document declares the implementation of an accelerated energy transition that must be inclusive, collaborative, and in accordance with the conditions and priorities of each country ([Energy Transitions Minister's](#)



[Meeting, 2022](#)). The issues raised in the forum were energy access, technology, and financing. Although the environment is not the main issue being discussed, this fact follows the thesis stated by Cullet ([Cullet, 2022](#)) that economic growth and consumerism are the main factors in the development paradigm that can result in environmental damage. The energy transition as a configuration of development also often ignores the aspect of human rights. Energy access, which is part of human rights, is interpreted as the penetration of the energy industry into people's lives and makes it dependent.

The Government of Indonesia has a constitutional responsibility under Article 28H (1) of the Indonesian Constitution to ensure that its people enjoy a clean and healthy environment ([Indonesian Constitution, 1945](#)). Therefore, as part of climate policy, the energy transition must ensure that these rights will be implemented perfectly. In addition, as a member state of the UNHRC that approved Resolution Number A/76/L.75, Indonesia also has a responsibility, at least morally, to its public. Furthermore, Indonesia also has a responsibility so that other parties, namely corporations, do not violations against the RCHSE in the energy transition process. The case of air pollution due to geothermal power plant operations in Mataloko, Flores and water pollution due to the existence of a hydroelectric power plant in Poso are examples of violations of the RCHSE in the energy transition process ([Jaringan Advokasi Tambang & Koalisi Rakyat untuk Hak atas Air, 2022](#)). This condition is due to the missing link between state policies, CC, and human rights, resulting in violations of the RCHSE in the form of pollution by the clean energy industry ([Quirico and Boumghar, 2015](#)).

Mainstreaming human rights in climate policy, including the energy transition, must be conducted by collaborating and cooperating with all parties ([Wewerinke-Singh, 2022](#)). The state as a regulator, corporations as operators in the field, and the public as beneficiaries must be involved to determine energy transition policies that do not injure human rights ([Siciliano et al., 2021](#)). The first step that needs to be taken is to explain to corporations that the energy industry, which is an extractive industry, has a broad dimension of human rights ([Wewerinke-Singh, 2022](#)). Therefore, it is urgent to include human rights and environmental aspects in regulating the energy transition. Without this aspect, the regulation of the energy transition will only cause environmental damage that ignores human rights. In addition, citing Stravinsky's ([Stabinsky, 2018](#)) perspective of climate justice, the condition of neglect of human rights aspects will give rise to three forms of inequality.

Development disparities are the first gaps that will be caused; on a national scale, the people living in polluted environments benefit the least from development ([Sayan, 2019](#)). Furthermore, the most vulnerable groups, such as women, children, and indigenous peoples, are the most disadvantaged. The conditions experienced by the indigenous people of Wawonii Island in Southeast Sulawesi are a clear example of how local people are affected by mining activities to fulfil energy transition ambitions that are not friendly to human rights ([Rusdianto, 2022](#)). The last gap concerns the public's meaningful participation in providing input and suggestions in the regulatory formulation process.

The experience of other countries shows that public involvement in formulating energy transition policies will have a positive impact. Siciliano et al. (2021) studies([Siciliano et al., 2021](#)) in Vietnam showed the condition. However, it cannot be covered that the fact that economic and social disparities occur still occurs because human rights have not been fully recognised. Therefore, mainstreaming human rights is important for regulators to implement. Recognising the RCHSE can be a catalyst for recognising other rights, such as the right to clean air, water, and food. According to Heffron ([Heffron, 2022](#)), every country should define an equitable energy transition. Recognition and guarantee of the implementation of human rights are inseparable aspects of justice. Indifference to aspects of human rights in the energy



transition will fail environmental laws to work to protect the public. The inconsistency and impressiveness of a legal system to protect its people will fail and make the legal subsystems incompatible (Bányai, 2019).

Indonesia faces at least three challenges in reproducing and ensuring the implementation of the RCHSE in its legal framework of the energy transition. The first challenge is that although the rights to a clean and healthy environment have been recognised in Indonesian law, their implementation needs to be improved by very strong sectoral barriers. For example, recognition of the rights of a clean and healthy environment in the Constitution, Human Rights Law, and Environment Protection and Management Law is not necessarily adopted by regulations governing extractive industries that directly impact the environment. This condition can be used as an example of a missing link between regulations that impact the environment. The second is that there are obstacles in the Renewable Energy Bill (REB) legislative process, which has not been passed for more than three years. The problem related to REB is that its substance often changes and is even considered not to support the energy transition because it still adopts coal and its derivation products (Institute for Essential Services Reform and Simanjuntak, 2022). Another polemic of REB is the substance regarding nuclear energy that civil society organisations reject (Anindarini et al., 2021).

Lastly, Indonesia's fossil energy dependence on oil and coal reaches more than 55% (International Energy Agency, 2022). Therefore, as long as fossil energy is still dominant in the national energy mix, guaranteeing the RCHSE will not be carried out perfectly. This condition is even more complicated with the adoption of PRRE, which provides opportunities for coal-based power plants. Thus, the coal industry will continue its activities because domestic demand will be maintained until 2050. Legally, the choice of the legal form of the Presidential Regulation instrument is also quite problematic because the instruments of the Law regulate coal commodities. Thus, if there is a conflict of legal norms in the future, then the instrument of the Presidential Regulation must be set aside.

4. Conclusion

The RCHSE is legally recognised in the Indonesian legal framework, particularly in Human Rights Law and Environment Protection and Management Law. However, this right has yet to be expressly recognised in the Indonesia energy transition legal framework. As a result, the energy transition process in Indonesia is very prone to violating human rights. Furthermore, the emergence of several cases in multiple areas which marginalises indigenous peoples in the name of the clean energy industry. Therefore, mainstreaming human rights in legal instruments that regulate Indonesia's energy transition is urgent. Several challenges must be observed: sectoral egos, inaccuracy of the choice of legal instruments, and Indonesia's dependence on fossil energy. Last but not least, the author acknowledges that this study has weaknesses, especially from empirical legal studies perspective. Therefore, future studies on the recognition of the RCHSE in the energy transition in Indonesia can be carried out with socio-legal research methods to get a comprehensive perspective.

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