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Reconstruction of the Sustainable Finance Scheme Framework with Indigenous Law Communities

Tandori
Universitas Sanata Dharma
tandori.yk@gmail.com

Caecilia Wahyu Estining Rahayu
Universitas Sanata Dharma
caecilia50@gmail.com

Abstract
This study aims to reconstruct sustainable finance as a rights-based legal-economic regime that ensures justice for indigenous peoples, given that global green finance instruments frequently fail to protectiIndigenous territorial rights and dignity. The method employs socio-legal library research using conceptual and comparative approaches, analyzed through the energy justice framework and Indigenous stakeholder theory. The results demonstrate that mainstream ESG standards, carbon markets, and green financial instruments suffer from recognition and procedural justice deficits that facilitate green colonialism and Indigenous land dispossession. The conclusion emphasizes the necessity of a paradigm shift from voluntary compliance toward a rights-based approach through the formulation of an Indigenous Sustainable Finance Scheme grounded in culturally aligned governance, legally binding financial instruments, recognition of the rights of nature, and substantive free, prior, and informed consent. The implications highlight the need for regulators, financial practitioners, and scholars to reform sustainable finance architectures by recognizing Indigenous peoples as legal-economic subjects and as a prerequisite for long-term investment sustainability.

Keywords: energy justice, ESG regime, green colonialism, indigenous peoples, indigenous sustainable finance.

INTRODUCTION

The global transition to a low-carbon economy currently faces a fundamental paradox that threatens the integrity of the sustainability goals themselves. On the one hand the urgency of climate change mitigation has mobilized massive capital flows through green financial instruments to finance renewable energy and conservation projects, but on the other hand this acceleration often replicates the systemic injustices previously inherent in fossil energy regimes, where the burden of social and environmental externalities falls disproportionately on local communities again. Lenhardt et al.(2025) critically highlights that without a strong justice framework, the energy transition has exacerbated the vulnerability of marginalized

communities through land grabbing and human rights disregard in the name of decarbonization. This phenomenon creates an urgency to re-evaluate the sustainable finance architecture so that it is not only "green" in label, but also fair in substance, especially for customary law communities whose territories are often the locations of such strategic projects.

Main stream literature on sustainable finance (*sustainable finance*) has tended to be dominated by discussions on technical instruments such as green bonds (*green bonds*) and environmental, social, and governance (ESG) standards as market mechanisms to encourage responsible investments. Strandberg (2005) Identify that global financial institutions have adopted these principles to minimize risk and create long-term value. However, this technocratic approach has fatal limitations when applied to the context of indigenous peoples. Poyser (2023), in its systematic review, found that the literature on "Sustainable Finance of Indigenous Law Communities" (*Indigenous Sustainable Finance*) is still highly fragmented and often only a minor sub-topic in social finance discourse, thus failing to capture the complexity of indigenous peoples' spiritual and material relationship with their lands. This lack of a specific framework means that green financial instruments often operate without adequate protection of customary territorial rights.

This lack of an inclusive framework has fuelled a phenomenon that has been referred to as "Green Colonialism" (*Green Colonialism*) or "Green Grabbing" (*Green Grabbing*). Upadhyay et al. (2023) provides empirical evidence from Kenya, where geothermal and wind energy projects funded by global green schemes have instead resulted in the forced eviction of indigenous peoples from their ancestral lands without a meaningful consent process. In line with that, Fjellheim (2023) in her case study of the Sámi people in Norway, shows how the narrative of renewable energy is used to legitimize industrial intrusion into reindeer grazing areas, effectively marginalizing the rights of indigenous peoples in the name of national climate interests. These studies confirm that current financial mechanisms not only fail to protect, but

can actively harm indigenous peoples if not accompanied by a fundamental paradigm shift in governance.

The novelty of this research lies in the formulation of an operational normative model to reconstruct sustainable finance as a fair economic law regime for customary law communities. This research offers an integrative framework that links governance based on cultural conformity, legally binding financial instruments, protection of rights through substantive free consent and recognition of natural rights, and a restorative ethical orientation that places the dignity of indigenous peoples as the ultimate goal of economic activity. Through a socio-legal approach based on an integrative literature study and cross-jurisdictional comparison, the study not only identifies patterns of structural injustice in global climate finance, but also generates a methodological and policy basis for reforming sustainable finance standards towards a more equitable and accountable rights-based approach.

To reinforce the normative relevance of this study, several case examples are used illustratively without being intended as an in-depth empirical study. In the Indonesian context, the experience of indigenous peoples in the Pubabu-Bisoni Customary Forest area, East Nusa Tenggara, shows how conservation and management policies of forest areas framed in the sustainability agenda actually limit indigenous peoples' access to their living space due to the absence of substantive recognition of tenure rights ((AMAN), 2020; Butt, 2014). In addition, the development of carbon-based projects and forest conservation in the customary territories of Kalimantan and Papua linked to climate finance schemes and carbon markets shows a similar trend, where indigenous peoples are often positioned as limited social beneficiaries without a clear legal status for carbon economic rights and benefits (CIFOR, 2021; UN-REDD, 2019). These examples are used to show that without a framework of justice, recognition, and inclusive governance, sustainable finance has the potential to reproduce asymmetrical power relations in the context of customary law communities.

To dissect these complexities and formulate equitable solutions, this study uses two main theoretical foundations that complement each other. First, the Energy Justice Framework (*Energy Justice Framework*) as formulated by Sovacool (2021) It is used as a critical analysis knife to identify forms of distributive injustice (benefit-sharing and burden), procedural (access to decision-making), and recognition (recognition of cultural rights) in current green project funding schemes. This theory allows research to go beyond mere economic analysis and into the ethical dimension of the energy transition. Second, to construct better corporate and financial governance solutions, this study adopts the Customary Law Community Stakeholder Theory (*Indigenous Stakeholder Theory*). In contrast to conventional stakeholder theory, this approach, as articulated by Logie (2022) in the context of banking Customary Law Societies and Valente (2012) In the context of institutional capital, placing indigenous peoples not as passive beneficiaries, but as active partners who have institutional capital and ecological knowledge that are vital for the sustainability of the project.

Through the synthesis of these two theoretical perspectives, this research aims to fill the gap between literature and policy by formulating a "Customary Sustainable Finance Scheme". The scheme is not only designed to mitigate social and reputational risks for investors, but further to restore the sovereignty of indigenous peoples in the management of their natural resources. Thus, this research offers something new in the form of an integrative model that reconciles modern financial instruments with the principles of energy justice and the rights of indigenous peoples, ensuring that the transition to a green economy leaves no one behind.

LITERATURE REVIEW

Sustainable finance hegemony and the recognition deficit in global standards

The contemporary literature on sustainable finance is dominated by technocratic approaches that place market instruments such as green bonds and environmental, social, and governance (ESG) standards as the main mechanisms of climate risk mitigation. Strandberg (2005) noted that global financial institutions have adopted these principles to integrate externality factors into investment decisions in order to create long-term value. However, Poyser (2023) through its systematic review criticized that the literature on sustainable finance of Indigenous Law Communities or *Indigenous Sustainable Finance* It is still highly fragmented and fails to define the role of indigenous peoples beyond mere passive beneficiaries of corporate social responsibility. Bansal et al. (2023) reinforced this argument by highlighting that over the past 25 years, management research has tended to marginalize the worldview of Indigenous Legal Peoples and fail to integrate local wisdom into mainstream sustainability business models.

This theoretical gap manifests itself in the weakness of global compliance standards. Siren Gualinga (2022) proved through comparative analysis of key sustainability reporting standards such as GRI, SASB, and TCFD that the rights of indigenous peoples are often blind spots or *blind spot* institutional. These standards often fail to require material disclosure of tenure conflicts or free and non-coercive consent (*Free, Prior, and Informed Consent* or FPIC). Tebtebba Foundation (2021) added that this failure is not only happening to the private sector but also to international public funding mechanisms such as *Green Climate Fund* (GCF), where indigenous peoples' protection policies are often not well implemented at the national level due to the absence of strict accountability mechanisms. As a result, financial instruments designed for the global good operate in an ethical vacuum when they come into contact with customary territories.

Energy justice and criticism of green colonialism

The absence of a specific protection framework in sustainable finance has fueled a phenomenon that critical scholars refer to as green colonialism. Using the Energy Justice Framework, Lenhardt et al. (2025) showed that the transition to low-carbon energy often replicates the same distributive and procedural injustices as fossil energy regimes. Sovacool (2021) deepened this analysis by identifying that global decarbonization projects have created a new class of victims who experience eviction, land grabbing, and cultural destruction in the name of climate mitigation. This literature confirms that green labeling an investment project does not necessarily guarantee social justice, and often even serves as a moral veil to legitimize the extraction of resources from the periphery to the centers of the global economy.

Empirical evidence of this phenomenon is evident in the practice of green or *green grabbing*. Upadhyay et al. (2024) documenting how geothermal and wind energy projects in Kenya funded by international capital have unilaterally taken over customary lands, ignoring the tenure rights of pastoralist communities. Fjellheim (2023) provided a similar perspective from the northern hemisphere, where the development of wind farms in the Sáppi region of Norway threatens the livelihoods of Sámi reindeer herders. The study shows that national laws often prioritize national energy interests over the human rights of indigenous peoples, a practice that is effectively a new form of colonization through green infrastructure. Westholm and Arora-Jonsson (2015) added a gender and power dimension to this critique by showing how carbon market mechanisms such as REDD+ simplify the complexities of forest management into mere commodities, ultimately marginalizing the role of indigenous women and local knowledge.

Sustainable finance and customary law communities in the Indonesian context

The development of sustainable finance in Indonesia shows the state's commitment to integrating the economic development agenda with the principles of environmental and social

sustainability through the establishment of a financial sector regulatory framework. Since 2014, the Financial Services Authority has introduced the concept of sustainable finance as part of the national financial system reform, then institutionalized it through the Financial Services Authority Regulation Number 51/POJK.03/2017 concerning the Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies. The regulation places environmental and social factors as part of risk management and corporate responsibility, and affirms the role of the financial sector as a policy instrument in achieving sustainable development goals in Indonesia (OJK, 2017).

The sustainable finance framework in Indonesia still reflects the dominance of mainstream environmental, social, and governance approaches oriented towards risk mitigation and procedural compliance. The Indonesian Green Taxonomy compiled by the Financial Services Authority serves as a classification instrument for sustainable economic activities to support green financing, but the framework has not explicitly placed customary law communities as subjects of economic law who have decision-making rights and rights to the distribution of economic benefits. This approach shows alignment with global sustainable finance practices that tend to treat social issues, including the rights of indigenous peoples, as an additional variable in the risk management framework, rather than as a normative foundation in financial governance (Keuangan, 2022).

The sustainable finance agenda in Indonesia has a structural link to energy transition policies and climate change control contained in various national planning documents. The National Action Plan for Low Carbon Development and climate finance documents such as RAN-PRISMA affirm the role of financial instruments in supporting climate change mitigation and adaptation. The state also encourages the acceleration of green investment through the discussion of the New and Renewable Energy Bill as the legal basis for the development of the low-carbon energy sector. The policy framework still places local communities and customary

law communities primarily as parties affected by the policy, rather than as the main stakeholders in the process of designing, decision-making, and controlling sustainable projects (Butt, 2014; Safitri, 2020).

The limitations of the policy framework are reflected in the management of natural resources in customary territories, particularly in the forestry sector and carbon-based projects. The literature on REDD+ and carbon markets in Indonesia shows that climate finance schemes aim to protect forests and reduce greenhouse gas emissions, but their implementation often faces issues of recognition of tenure rights and limited substantive participation of indigenous peoples. This condition shows that there is a gap between the design of sustainable financial policies and the protection of the rights of indigenous peoples, thus opening up space for the formation of asymmetrical power relations in the management of green projects (CIFOR, 2021; UN-REDD, 2019).

The Indonesian context thus shows that sustainable finance has developed as a relatively well-established policy and regulatory regime, but it still leaves fundamental issues related to the justice recognition and sovereignty of indigenous peoples. This gap reinforces the urgency of developing the Indigenous Sustainable Finance framework as offered in this study, which is an approach that not only integrates environmental and social aspects into financial logic, but also places customary law communities as economic law subjects who have institutional capital and substantive decision-making rights in sustainable financial governance.

Theory of community stakeholders, customary law and institutional capital

To overcome these market and policy failures, a paradigm shift from a risk management approach to a community asset-based approach is needed. Valente (2012) develop *Indigenous Stakeholder Theory* by introducing the concept of institutional capital of Indigenous Law Communities (*indigenous institutional capital*). This concept argues that indigenous peoples have unique capabilities in the form of ecological knowledge and social structure that are vital

assets for a company's long-term success. Accommodation (2022) Applying a similar logic in the banking sector by showing that the sustainability of financial institutions in the local area is highly dependent on their ability to align operations with the cultural values and economic needs of the local community.

This integration of social and cultural capital requires an adaptive governance structure. Dodson and Smith (2003) offer the concept of cultural appropriateness or *cultural match* in governance, which emphasizes that the legitimacy of institutions in the eyes of indigenous peoples depends on the extent to which the structure reflects local decision-making traditions. Chigwada and Ngulube (2023) and Ajeng et al. (2023) added that the management of Indigenous Peoples' knowledge and local wisdom should be the main basis in the design of conservation and development projects, not just complementary. This literature collectively builds the argument that indigenous peoples' involvement is not just a moral obligation, but a strategic prerequisite for mitigating operational and social risks.

New legal foundation: natural rights and binding financial instruments

The transformation towards equitable sustainable finance requires innovation in legal and financial instruments. Patel (2023) offered a revolutionary legal framework through the concept of natural law personality (*legal personhood of nature*), where ecosystems are recognized as legal subjects who have the right not to be harmed. This concept changed the perspective of investment from resource exploitation to partnerships with living entities. Doyle (2016) complements this legal framework by affirming that FPIC standards in international law have evolved from mere consultations to substantive consent requirements that grant indigenous peoples effective veto rights over projects that impact their territories.

In the realm of financial instruments, Leruth, Paris, and Ruzicka (2001) proposed a performance guarantee bond mechanism (*performance guarantee bonds*) as a solution to the problem of corporate non-compliance with environmental regulations. This mechanism forces

companies to bear financial risks upfront, which can only be repaid if sustainability standards are met. Lastly, Vázquez-Maguirre (2020) framed this entire approach in a humanistic management philosophy that places the restoration of human dignity (*dignity restoration*) as the ultimate goal of economic activity.

Literature synthesis and research gap identification

A synthesis of the literature shows that the sustainable finance discourse develops in a fragmented manner between mainstream ESG approaches, energy justice frameworks, and customary law community stakeholder theory. Neither approach fully integrates the dimensions of justice recognition, financial instruments, and the position of indigenous peoples as subjects of economic law. Therefore, this study presents a literature gap matrix and a conceptual comparison table to affirm the position of the research as well as the normative contribution offered.

Matrix Gap

Dimensions	**ESG Mainstream**	**Energy Justice**	**Indigenous Stakeholder Theory**	**This research**
Main focus	Risks and economic value	Distributive and procedural justice	Community institutional capital	Reconstruction of the financial regime
The position of indigenous peoples	Social objects	Affected groups	Local stakeholders	Subject of economic law
Recognisi hook	Implisit	Normative	Contextual	Substantive and binding
Financial instruments	Volunteer	Not discussed	Not being in focus	Financial binder
Legal–financial integration	Partial	Not systematic	Limited	Integrated

Comparison Table of Mainstream ESG and Indigenous Sustainable Finance

Variabel	**ESG Mainstream**	**Indigenous Sustainable Finance**
Paradigm	Compliance and markets	Justice and sovereignty

Variabel	ESG Mainstream	Indigenous Sustainable Finance
Purpose	Risk mitigation	Restoration of dignity
The position of indigenous peoples	Object of protection	Subject of economic law
Governance	Corporate-centric	Shared governance
Instruments	Volunteer	Rights-based binding
Relationship with nature	Resources	Legal subjects

Conceptual framework of research

The synthesis of the above literature forms the conceptual framework of this research. The failure of the current market mechanism (criticized through *the Energy Justice Framework*) is caused by the neglect of the institutional capital of Indigenous Communities. Therefore, the solution offered (built through *Indigenous Stakeholder Theory*) is an integrative scheme that combines: (1) governance based on cultural conformity, (2) binding financial instruments in the form of performance bonds, (3) legal protection through natural rights and FPIC, and (4) ethical orientation to the restoration of dignity. This framework provides a logical basis for the socio-legal methodology that will be used to design the Indigenous Sustainable Finance Scheme in the next section.

METHODS

This study adopts a socio-legal research method based on library research to analyze the intersection between financial legal instruments and the social reality of indigenous peoples. This approach was chosen because sustainable finance issues cannot be understood in their entirety through textual analysis of laws and regulations alone, but must be placed in the context of social, economic, and cultural impacts recorded in the academic literature. As confirmed in a systematic review by Lenhardt et al. (2025), the energy transition and its funding

mechanisms have profound justice implications where legal norms often clash with structural inequalities that exist in society. The application of a socio-legal approach in the corridor of literature studies facilitates a critical evaluation of the effectiveness of available legal instruments, including ESG and FPIC standards, particularly when confronted with power asymmetry between global entities and local communities.

This study specifically applies two analytical approaches, namely conceptual approach and comparative approach. A conceptual approach is used to reconstruct the definition of "Sustainable Finance" to be inclusive of the values of Indigenous Peoples (Indigenous Peoples). This refers to Poyser's (2023) findings which emphasizes the need to redefine the concept of finance that is not only profit-oriented, but also includes the elements of stewardship and inter-generational inheritance that are characteristic of the customary economy. A comparative approach was further used to analyze the failures and successes of climate finance mechanisms in different jurisdictions. Tebtebba Foundation Evaluation (2021) The implementation of indigenous peoples' policies in the Green Climate Fund (GCF) in various developing countries is used as the main reference to understand the gap between policies at the global level and implementation at the national level.

Data collection was carried out through an integrative review of legal literature, development economics, and indigenous studies. The data corpus includes secondary empirical case studies from various geographic regions, including Latin America, Africa, and Scandinavia, to map universal patterns of injustice. Upadhyay et al. (2024) on energy projects in Kenya and Fjellheim (2023) The impact of wind energy on the Sámi community is used as the main secondary data to identify the phenomenon of green grabbing. The secondary data is then juxtaposed with international legal documents, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and ILO Convention 169, to assess the level of compliance and legal protection available.

Data analysis was carried out qualitatively prescriptive using deductive logic. Normative legal material is juxtaposed with factual findings from various global case studies analyzed using two theoretical knives. Energy Justice Framework from Sovacool (2021) It was used for the first time to diagnose distributive and procedural justice deficits in existing funding schemes. Indigenous Stakeholder Theory developed by Valente (2012) It is then used to synthesize new solution models. Through this integrative analysis, the research does not stop at criticism of regulations, but goes further by formulating a Customary Sustainable Finance Scheme that places indigenous peoples' institutional capital as a fundamental asset in the project's financial structure.

RESULTS AND DISCUSSION

Deconstructing green finance hegemony: structural failures in energy justice and the emergence of new colonialism

The contemporary discourse on global sustainable finance is currently trapped in a fundamental paradox that threatens the integrity of the sustainability goals themselves. The urgency of climate change mitigation has mobilized massive capital flows through green finance instruments to finance renewable energy and conservation projects, but this acceleration often replicates systemic inequities previously inherent in fossil energy regimes. Analysis using *Energy Justice Framework* developed by Sovacool (2021) and expanded by Lenhardt et al. (2025) revealed that the energy transition is currently experiencing a serious deficit of justice in three main dimensions, namely distributive, procedural, and recognition justice. The absence of a strong justice framework results in the social and environmental externalities burden of decarbonization projects falling disproportionately on local communities and indigenous peoples.

The most fundamental justice deficit lies in the aspect of recognition or recognition of the rights of indigenous peoples in the global financial architecture. Siren Gualinga (2022) conducting an in-depth analysis of the standards *Environmental, Social, and Governance* (ESG) global that includes key reporting frameworks such as *Global Reporting Initiative* (GRI) and *Sustainability Accounting Standards Board* (SASB). The study found that indigenous peoples' rights are often absent from key indicators or are only placed as minor sub-topics within the framework of social risk alone, instead being recognized as sovereign rights holders over their territories. This institutional blindness is not just an administrative negligence, but a structural failure that allows the flow of green capital into customary territories without adequate human rights protection filters. This condition creates material risks for investors because the risk assessment carried out becomes inaccurate due to the neglect of crucial tenure conflict variables.

A direct consequence of such a recognition deficit is the emergence of a phenomenon that Doyle et al. (2023) dan Fjellheim (2023) identified as "Green Colonialism" (*Green Colonialism*). Fjellheim (2023) presents an empirical case study of wind energy development in the Sapmi region of Norway, which shows that the energy transition narrative is often used as a tool of political and legal legitimacy to seize reindeer grazing land belonging to the Sami people. This mechanism works by framing indigenous territories as vacant land or renewable resources that are ready to be extracted for the benefit of the national and global climate, while ignoring the fact that they are cultural and spiritual living spaces. This practice confirms that the "green" or "sustainable" label often hides the reality of a life space grab that is as brutal as conventional extractive industries.

This phenomenon of deprivation is reinforced by the findings of Upadhyay et al. (2024) through empirical evidence in Kenya, particularly on the Olkaria geothermal and Lake Turkana wind power projects funded by international financial institutions. The study shows that these

projects result in forced evictions and loss of indigenous peoples' access to ancestral lands through a practice referred to as "green grabbing" (*green grabbing*). This mechanism of expropriation operates through the legalization of the expropriation of customary lands in the name of the global public interest for carbon mitigation. Without strict procedural safeguards, green financial instruments are simply a replication of the colonial extractive model with new packaging that is harder to criticize because it takes refuge behind the morality of climate rescue.

Further analysis of carbon market mechanisms such as REDD+ (*Reducing Emissions from Deforestation and Forest Degradation*) indicates the simplification of harmful problems in global environmental governance. Westholm and Arora-Jonsson (2015), in their criticism of the implementation of REDD+ in Burkina Faso, highlighted the program's tendency to simplify the causes of deforestation into purely technical and economic problems. This simplification ignores local power dynamics and complex gender dimensions. As a result, the burden of conservation work is often shifted onto the shoulders of indigenous women without fair compensation, while control over forest resources shifts from local communities to global carbon technocrats. This creates a double injustice where indigenous peoples lose access to their resources while being burdened by conservation obligations dictated by outsiders.

Failure to implement indigenous protection policies also occurs at the level of the world's largest climate finance institutions. Tebtebba Foundation (2021) provides a layer of institutional criticism by showing that although *Green Climate Fund* (GCF) theoretically has a progressive Indigenous Peoples Policy, its implementation at the national level often fails. This failure is due to the absence of a robust accountability mechanism to compel the recipient government to comply with the principle of Consent on the Basis of Prior Information Without Coercion or *Free, Prior, and Informed Consent* (FPIC). This gap between global policy and implementation at the site level shows that voluntary policy instruments are insufficient to

protect the rights of indigenous peoples in the absence of structural reforms in the mechanism of disbursement of funds.

This series of systemic failures, ranging from blind spots in ESG standards, green sequestration practices, to gender-biased carbon technocracy, shows that the *business-as-usual* approach to sustainable finance is no longer tenable. There is a need for a complete deconstruction of the assumption that financial markets are neutral entities separate from social reality. The market must be understood as a political arena where the rights of indigenous peoples are often sacrificed for the sake of capital efficiency. Therefore, the solutions offered should not be partial or merely cosmetic, but should touch the heart of financial governance itself by placing energy equity as an absolute prerequisite for investment.

Reconstruction: indigenous *sustainable finance scheme framework*

Responding to the systemic failures and financial risks that have been described, the study synthesizes the findings of the literature to propose a new normative model called "Customary Sustainable Finance Schemes". This model builds on the foundation *of Indigenous Stakeholder Theory* which fundamentally transforms the position of indigenous peoples from mere passive beneficiaries to equal partners with unique institutional capital. The scheme consists of four interconnecting pillars designed to restore sovereignty and ensure the long-term sustainability of the project.

To run this model, the study formulated an integrative structure visualized in Figure 1. The structure illustrates the Indigenous Sustainable Finance Scheme (ISF) as an integrative solution consisting of four fundamental pillars:

1. **Governance Pillar (Top Left):** Focus on institutional and social aspects. This pillar emphasizes the importance of "Institutional Capital of Indigenous Law Communities" (Valente, 2012) and the principle of "Cultural Conformity" (Dodson & Smith, 2003) in

the project's decision-making structure, ensuring that corporate governance is aligned with local customary values and hierarchies.

2. **Financial Instruments Pillar (top right):** Offers a concrete economic mechanism. This pillar proposes "Performance Guarantee Bonds" (Leruth et al., 2001) as a tool to enforce compliance and strengthen "Customary Law Community Banking" (Logie, 2022) for the economic independence of the community.
3. **Pillars of Law & Rights (Bottom Left):** Provides a strong juridical foundation. This pillar adopts the revolutionary concept of "Natural Law Personality" (Patel, 2023) and the "Substantive FPIC" standard (Doyle, 2016) that goes beyond just a formality consultation.
4. **Pillars of Ethics (bottom right):** Set the orientation of the end value. This pillar frames all economic activities in the philosophy of "Humanistic Management" (Vázquez-Maguirre, 2020) with the main goal of "Restoration of Dignity" and preservation of heritage (legacy) (Poyser, 2023).

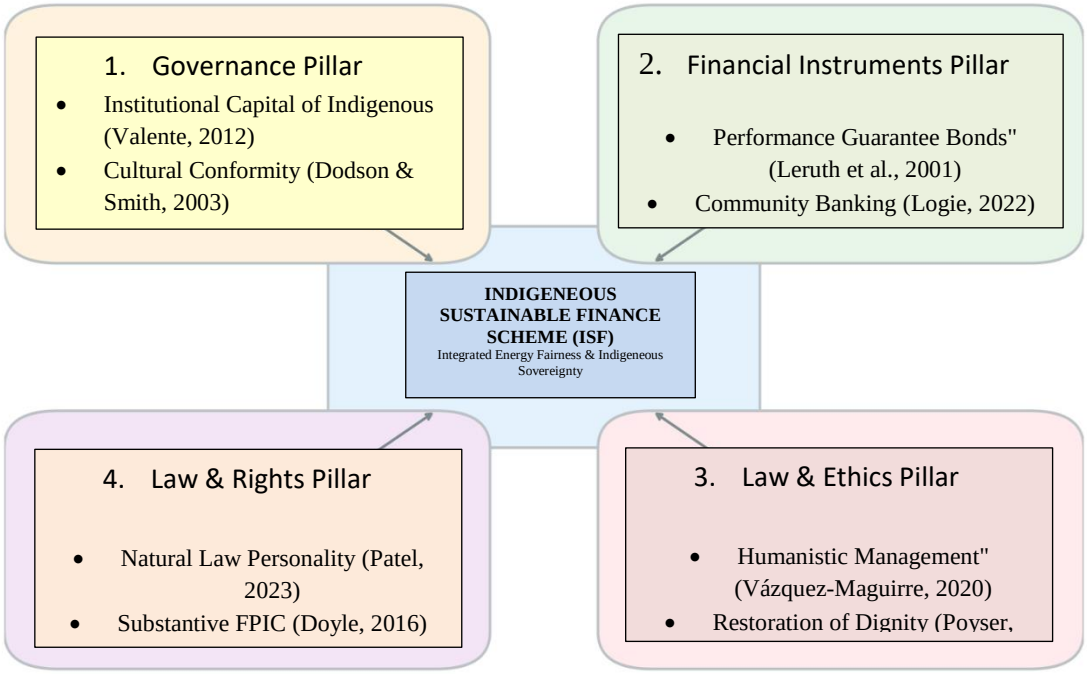

Figure 1. Indigeneous Sustainable Finance Conceptual Framework

These four pillars support each other to achieve the central goal that is in the middle of the chart: the Integration of Energy Justice & Indigenous Sovereignty, which is the antithesis to the current practice of "Green Colonialism". You can include this chart in your manuscript (for example, at the end of the Discussion or the beginning of the Conclusion) to visually reinforce the theoretical argument.

1. Pillars of governance: institutional capital integration and cultural conformity

The success of financial interventions in indigenous territories depends heavily on the institutional legitimacy built between investors and communities. Valente (2012) introducing the concept of "Institutional Capital of Indigenous Law Communities" (*Indigenous Institutional Capital*), which argues that a successful company or project is an entity that is able to integrate their governance structure with local customary norms, values, and hierarchies. This capital is not just a complement, but a strategic asset that determines the social viability of a project. These findings are in line with the concept of "Cultural Appropriateness" (*Cultural Match*) put forward by Dodson and Smith (2003), where the effectiveness of governance depends on the extent to which the organizational structure reflects the political culture of the indigenous peoples themselves. Under the proposed scheme, any project funded by green finance instruments is obliged to establish a joint governance body (*joint governance body*). This body should grant veto or substantive control to indigenous peoples to ensure that the logic of financial capital is subject to local social and cultural capital, not the other way around.

2. Financial instruments pillar: performance guarantee bonds and customary law community banking

To address the problem of corporate non-compliance with social standards that are often only voluntary, the scheme adopts a binding economic incentive mechanism. Leruth, Paris, and Ruzicka (2001) proposes the use of "Performance Guarantee Bonds" (*Performance*

Guarantee Bonds) in place of traditional environmental taxes that are often ineffective. In this model, the investor or developer of the project is required to deposit significant funds before the project begins. These funds and interest will only be returned if it is proven that there is no violation of customary rights or environmental damage at the end of the project period. This mechanism radically changes the incentive structure by shifting the burden of proof and financial risk to the developers. In addition, Logie (2022) emphasizing the importance of the role of microfinance institutions or locally owned banks (*Indigenous Banking*). These local financial institutions function to ensure that capital circulation remains within the community and serve the specific needs of the local economy, as well as to reduce dependence on external financial institutions that are often predatory.

3. Legal pillars: natural law personality and substantive FPIC

The legal basis in this scheme goes beyond the protection of conventional human rights towards a paradigm of ecocentrism that recognizes the rights of nature itself. Patel (2023), through the analysis of the Whanganui River case in New Zealand, offers the revolutionary concept of the "Personality of Natural Law" (*Legal Personhood of Nature*), where a natural entity is recognized as a subject of law that has the right not to be tampered with and can be represented in court. The integration of this concept into sustainable financial analysis means that investment risk assessments not only calculate the impact on cash flow, but also the potential liabilities due to infringement of natural rights. On the other hand, Doyle (2016) asserts that FPIC standards must shift from mere administrative procedural consultation to a requirement of ongoing substantive consent. Under this scheme, the withdrawal of consent by indigenous peoples midway through the process has the legal force to trigger a cessation of funding flows (*funding freeze*), thus providing real bargaining power for the community.

4. Pillars of ethics: humanistic management and restoration of dignity

The last pillar frames this entire scheme in the philosophy of "Humanistic Management" as outlined by Vazquez-Maguirre (2020). In contrast to the conventional business model that prioritizes maximizing shareholder profits, this model puts "Restoration of Dignity" (*Dignity Restoration*) as the main purpose of economic activity. In the context of indigenous peoples who often experience historical trauma due to colonialism, investment must be assessed not only from the *Return on Investment* (ROI), but from *Return on Dignity*. Poyser (2023) refer to this dimension as "Legacy" (*Legacy*) in the finance of Indigenous Law Communities, where economic value must be aligned with the preservation of identity and intergenerational welfare. This requires investors to adopt holistic success metrics, including indicators of cultural recovery, social cohesion, and food sovereignty.

This synthesis of these four pillars offers a radical yet pragmatic new architecture for sustainable finance. This scheme rejects the false dichotomy between economic development and the protection of customary rights that is often echoed in the development narrative. Rather, through the integration of local wisdom as discussed by Ajeng et al. as well as Chigwada and Ngulube, with modified modern financial instruments, this scheme proves that true sustainability can only be achieved if energy justice and customary sovereignty are laid down as absolute prerequisites. This approach transforms the position of indigenous peoples from an object of risk to be mitigated to an active subject who holds the key to long-term sustainability.

CONCLUSION AND IMPLICATIONS

Conclusion

This research confirms that the global sustainable finance architecture is currently at a critical crossroads. Mechanisms such as ESG standards, carbon markets, and green bonds designed to mitigate the climate crisis have proven to fail to protect indigenous peoples due to

the absence of substantive recognition and procedural justice frameworks. These failures are not just implementation anomalies but systemic design flaws that are actively facilitating new forms of colonialism through *green grabbing* in the name of the energy transition as evidenced by empirical studies in Kenya and Scandinavia. Green capital flows without a paradigm shift in high-risk governance deepen historical inequalities and trigger social conflicts that will ultimately hurt the sustainability of the project itself.

This research offers a model of *Indigenous Sustainable Finance* Scheme as an antithesis to this technocratic approach. The model builds on four integrative pillars designed to restore the sovereignty of indigenous peoples. The first pillar demands the integration of Indigenous Peoples' institutional capital into corporate decision-making structures to ensure social legitimacy through cultural conformity. The second pillar introduces a performance guarantee bond mechanism to transform human rights compliance from voluntary obligations to legally binding financial incentives. The third pillar adopts the concept of natural legal personality and the principle of substantive consent as the minimum standard of legal due diligence. The fourth pillar places dignity *restoration* as the ultimate goal of investment that goes beyond just economic returns.

The implications of these findings demand radical policy reform at the level of financial regulators and international standards institutions. Stakeholders must move beyond the *compliance checklist* framework towards a *rights-based approach* that places indigenous peoples as sovereign shareholders in a green economy. This study shows for financial practitioners that the neglect of the energy justice dimension is not only an ethical issue but also a real material risk. A just transition energy *is* ultimately only possible if financial instruments are re-engineered to serve the preservation of the biosphere as well as the sovereignty of the communities that protect it.

Recommendations

Based on the findings of the research and conclusions that have been presented, the first strategic recommendations are addressed to financial regulators and policymakers at the national and international levels. Financial services authorities and relevant ministries need to urgently reform the current sustainable finance taxonomy so that indigenous peoples' rights are no longer placed as a voluntary aspect of environmental, social, and governance (ESG) standards. Regulators are encouraged to adopt a performance guarantee bond mechanism as proposed by Leruth, Paris, and Ruzicka (2001) as a mandatory instrument in licensing green investment projects in customary territories. This mechanism requires corporations to place a guarantee fund that can only be disbursed if there are no human rights violations and ecological environmental damage until the end of the project cycle. This step is crucial to changing the compliance paradigm from a mere administrative burden to a legally binding economic incentive.

The second recommendation is aimed at financial practitioners, including investment managers and corporate banking, to undertake a fundamental reorientation in their due diligence procedures. Siren Gualinga (2022) has proven that disregard for indigenous peoples' rights creates significant material risks to investment portfolios. Therefore, financial institutions are advised not to rely solely on unilateral sustainability reports from companies, but should involve independent verification based on the substantive consent of indigenous peoples. Financial practitioners need to integrate Indigenous Peoples' institutional capital into the project governance structure through the establishment of a joint supervisory board that gives an equal voice to indigenous representatives, as emphasized in the concept of cultural conformity by Dodson and Smith (2003). This will ensure that the investment made has strong social legitimacy and high conflict resistance.

The third recommendation is aimed at the academic community and researchers to expand the sustainable finance research agenda which has been fragmented. Poyser (2023) highlighting the lack of literature that specifically addresses investment success metrics from the perspective of indigenous peoples. Further research is expected to develop and test new quantitative indicators to measure "dignity restoration" or *dignity restoration* as a variable of investment performance, surpassing traditional financial indicators. A longitudinal study is also needed to test the effectiveness of the application of the concept of natural law personality in environmental disputes in court, in order to see the extent of Patel's proposed legal framework (2023) can be effectively applied in a variety of different legal jurisdictions.

The final recommendation is addressed to civil society organizations and indigenous peoples' assistance agencies to strengthen the capacity of data-based advocacy in the face of the phenomenon of green deprivation or *green grabbing*. Upadhyay et al. (2024) The impact of renewable energy projects in Kenya shows that climate narratives are often used to suppress local rights. Civil society organizations are advised to use the energy justice framework as a tool of diplomacy in international forums to demand accountability from global climate finance agencies such as *Green Climate Fund* to consistently adhere to their own protection policies. The synergy between public pressure, regulatory reform, and financial instrument innovation is expected to be able to realize an energy transition that is not only environmentally friendly but also upholds social justice and the sovereignty of indigenous peoples..

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