



Political Law of Carbon Tax Regulation as the Implementation of Green Economy Policy

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Abstract. The increase in carbon emissions is strongly influenced by the factor of using dirty energy which is widely used today. Control of carbon emissions absolutely must be done to avoid extreme climate change that can cause sustainable environmental damage. In overcoming this, the Government has implemented the imposition of a carbon tax through Number 7 of 2021 concerning Harmonization of Tax Regulations as well as to achieve the emission target set by 2030. This has certainly marked a paradigm shift towards the assumption that the economy is always prioritized. Therefore, this research will analyze and identify the legal politics of carbon tax regulation as the implementation of green economy policies. The formulation of the problem in this research is how is the legal politics of carbon tax regulation as the implementation of green economy policy? This study finds that the legal politics of carbon tax regulation is very environmentalist because it prioritizes aspects of environmental sustainability, rather than the economy. In addition, it was found that there was a paradigm shift from destructive development to sustainable development.

Keywords: Tax Carbon · Political Law · Green Economy

1 Introduction

Currently, the use of dirty energy in Indonesia is still very dominant, compared to the available clean energy. The Central Statistics Agency released data in 2020 which showed that primary energy production as a whole reached 20,600,280 terajoules, and coal was dominated by 15,527,106 terajoules [1]. This indicates that the greater the use of fossil energy in industry, the greater the potential for environmental pollution by increasing carbon emissions.

This increase in carbon emissions is of course also driven by the increasing economic needs from year to year. With this situation, the current state of the world seems to be stuck in a dilemma between meeting economic needs at a low cost or sacrificing large amounts of capital to preserve the environment. These two paradigms certainly show a dichotomy of interests between business and the environment.

The increase in carbon emissions is not only influenced by one factor, but there are various other factors that result in the high number of carbon emissions in Indonesia.

Such as problems in land use change and the forestry sector which accounts for 18–20% of anthropogenic emissions of greenhouse gases in the world [2]. In Indonesia itself, forestry problems in increasing carbon emissions are quite serious, as evidenced by carbon emissions resulting from forest and land fires in 2021 which will reach 41.4 million tons of CO₂e [3].

If you look at the inventory data of greenhouse gas emissions in 2019, the figure reached 1,866,552 Gg CO₂e with contributions from each category, namely energy of 636,808 Gg CO₂e, industry and product use of 60,175 Gg CO₂e, agriculture of 108,598 Gg CO₂e, forestry and fires. Peat is 924,853 Gg CO₂e, and waste is 134,119 Gg CO₂e [4]. Even so, in 2020 there will be a significant reduction in carbon emissions. This emission reduction is indeed due to the social restrictions against Covid-19.

In May 2020 carbon emission reductions reached 90–95% in air and sea transportation, then land at 34.2%. This reduction in carbon emissions then decreases with the opening of sectors that contribute to carbon emissions in the new normal adaptation period. But on the other hand, there was an increase in carbon emissions from electricity consumption in commercial and industrial areas which reached 85.15% and 48.67%, respectively.

In legal politics, Indonesia's intention to reduce carbon emissions can be seen in ratifying the Paris Agreement to the United Nation Framework Convention on Climate Change through Law Number 16 of 2016 concerning Ratification of the Paris Agreement to the United Nation Framework Convention on Climate Change. However, until now this effort has not been declared optimal, especially with a statement issued by Siti Nurbaya (Minister of Environment and Forestry) in a joint forum with the Indonesian Student Association (PPI) which stated that "the ongoing development on a large scale under President Jokowi must not stop in the name of carbon emissions or in the name of deforestation" [5]. The counterproductive statement against Indonesia's ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change shows that there is a real intention that is contrary to the Paris convention.

Even so, the Government has a target to reduce carbon emissions to 400 million tons by 2030, and if this target is achieved, Indonesia can reduce carbon emissions five times compared to 2020 [6]. To achieve this target, the Government issued various regulations related to reducing emissions. Carbon, such as Presidential Regulation Number 98 of 2021 concerning Implementation of Carbon Economic Values for Achieving Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development, to the policy of imposing carbon taxes that have a negative impact on the environment through Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

The two rules are in line because they discuss taxes on carbon and both aim to achieve a Nationally Determined Contribution (NDC) whose target is to reduce greenhouse gas emissions by 29% to 41% by 2030 while building national, regional, and regional resilience. and communities from risks to climate change conditions.

As a comparison, according to Anih Sri Suryani, carbon taxes do not only function as additional state revenue, but function to reduce the consumption of goods that can produce GHG emissions and environmental damage. A carbon tax is one of the fiscal

instruments that can bridge the price competitiveness gap between renewable technologies and fossil fuel technologies, while supporting low-carbon development towards a green economy and accelerating sustainable development targets.

The implementation of a carbon tax as an instrument to reduce carbon emissions has been implemented in various countries, such as Sweden and Finland as the first countries to implement a carbon tax policy in 1990. Strong protests from business actors to reject the implementation of a carbon tax which is considered detrimental to entrepreneurs because it will increase production costs [7]. In response to the protest, Suahasil Nazara (Vice Minister of Finance) stated that the imposition of a carbon tax is not only related to government revenues, but also the perspective of protecting the interests of the people [8].

Suahasil Nazara's statement implies that the government's paradigm of taxation is not only limited to government revenues, but also environmental aspects and the public interest. This is a manifestation of the legal political aspect of the formation of a carbon tax policy which is very interesting to study further, because there are indications of a paradigm shift from taxation as an aspect of government revenue to a broader aspect, namely the protection of the interests of many people, especially in the environment. The formulation of the problem in this research is how is the legal politics of carbon tax regulation as the implementation of green economy policy? This study will identify the legal politics of implementing carbon tax arrangements in Indonesia.

2 Method

This research uses normative juridical law research [9] or also known as doctrinal legal research. In this paper, the focus of the research is to examine the legal politics in the regulation of the imposition of carbon taxes in Indonesia. The approach used in this research is a statutory approach [10], namely by analyzing and examining laws and regulations that are related to the legal issues contained in this research, then a conceptual approach, namely by taking an approach through studying and understanding the concepts related to the imposition of laws and regulations. carbon taxes, and historical approaches to looking at the background of the birth of regulations regarding the imposition of carbon taxes. In this study, the search for legal materials was carried out by means of a literature study by tracing primary, secondary, and tertiary legal materials.

3 Results and Discussion

3.1 Carbon Tax Regulation in Indonesia

The imposition of a carbon tax as an instrument in fighting climate change is one of the concrete efforts of Article 2 of the Paris Agreement to the United Nations Framework Convention on Climate Change which states that the purpose of the agreement is to strengthen global response measures to the threat of climate change. This is done through three things, namely holding the rate of increase in global average temperature below 2 °C above pre-industrialization temperatures and continuing efforts to limit temperature increases to 1.5 °C above pre-industrial temperatures. -industrialization, recognizing that

this effort will significantly reduce the risks and impacts of climate change, increase the ability to adapt to the impacts of climate change and promote climate resilience and undertake development that is low in greenhouse gas emissions, without threatening food production, and create a consistent flow of funds with a development direction that is low in greenhouse gas emissions and is climate resilient, and Creates a consistent flow of funds with a development direction that is low in greenhouse gas emissions and is climate resilient.

The imposition of a tax on carbon is very necessary considering that Indonesia is one of the 20 countries that produce the largest carbon emissions in the world. The majority of other countries included in the list already have regulations regarding the imposition of taxes on carbon emissions, such as China, Japan and so on. This carbon tax is included in the form of a pigouvian tax because it can balance the negative externalities resulting from carbon emissions. The application of a pigouvian tax can promote justice for people who are directly or indirectly affected by the negative effects of carbon emissions. The same applies to the imposition of additional fees for the use of plastic bags which have negative externalities on the environment [11]. The imposition of taxes on the use of plastic has been carried out in various countries such as Portugal, Ireland, and so on [12].

The concept of paying more for something that has a negative externality is actually the same as the polluter pays principle which stipulates that there are conditions for costs resulting from pollution and the costs are charged to the actors/users who cause the pollution [13]. In Indonesia, the polluter pays principle has been applied to several regulatory provisions, such as Government Regulation Number 21 of 2010 concerning Maritime Environment Protection which states that the owner, ship operator, or unit in charge has responsibility for the costs required to handle the mitigation and losses from pollution.

In this way, the regulation of carbon tax in Indonesia becomes very rational to be applied in Indonesia. This carbon tax arrangement as a form which is theoretically known as a pigouvian tax encourages balanced and fair conditions for business actors and the community. Moreover, the imposition of a carbon emission tax which has a negative impact on the environment is also the responsibility of the perpetrators of environmental pollution as per the polluter pays principle.

By imposing a tax on carbon emissions, the government has implemented environmental tax reforms, namely shifting tax objects whose basis is “good activities” such as labor, capital, and consumption, to “bad activities” such as actions that pollute the environment [14]. In line with this, environmental tax reform has also shifted the paradigm from only state revenue to protection of the environment.

Business actors also have responsibility for environmental control, this is contained in Article 6 paragraph (2) of Presidential Regulation Number 98 of 2021 concerning Implementation of Carbon Economic Values for Achieving Nationally Determined Contribution Targets that business actors are one of the parties implementing mitigation against climate change. One of the contributions that can be made by the private sector is by paying the carbon emission tax that has a negative impact on the environment, then the funds are managed by the institution that manages environmental funds or the appointed institution and its implementation refers to the law.

The imposition of the carbon emission tax will of course directly burden the costs incurred by business actors, so that business actors are required to find other ways to incur lower costs, without having to pay large taxes. This can only be done if the business actor replaces production equipment that is friendly to the environment, so that it does not produce negative carbon emissions. This method will slowly shift the paradigm of business actors who previously did not seek to change production tools that are environmentally friendly due to the high cost of using.

3.2 Political Law Tax Carbon Regulation in Indonesia

Padmo Wahjono said that legal politics is a policy that determines the direction, form, and content of the law to be formed [15]. The determination of the direction is related to the achievement of the goals desired by the policy makers, and the purpose of the form and content of the formed law is related to the content material that will be used as part of the written law.

In legal politics, there are several characteristics related to the continuity or consistency of legal politics, which are permanent and periodic [16]. The permanent nature is related to matters that are fundamental to the framework of the state, such as those related to political ideology, as well as economics. As for the periodic one, it is legal politics that is enforced at a certain period by making adjustments to developments and times.

In looking at the carbon tax policy, when it is associated with the sustainability nature of legal politics, it is classified into a periodic nature. This is because efforts to reduce carbon emissions are a dynamic situation whose need is to preserve the environment. The encouragement from various conferences and conventions related to the environment in the world shows the urgency to implement carbon tax arrangements in Indonesia. Through the ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change, ideally, the direction of Indonesian legal politics towards various policies must be environmentalist in order to reduce existing carbon emissions.

The impetus for the increasingly alarming situation related to global warming has changed the paradigm of destructive development into sustainable development by paying attention to environmental sustainability. This impulse is referred to as a natural drive caused by an urgent need for the environment. This situation was confirmed by making Jakarta the area with the first worst air quality in the world in June 2022 [17].

If you look at other countries that have already implemented a carbon tax, there has been a significant reduction in the reduction of the carbon tax. For example, Japan, which reduced carbon emissions by 8.2%, and Finland, the Netherlands, Sweden, and Denmark, which managed to reduce it by 1.5%–6% [18]. From a comparative policy perspective, the implementation of a carbon tax has a positive impact on reducing carbon emissions.

The carbon tax as an effort to protect the interests of the people as stated by Sua-hasil Nazara as described in the introduction is an appropriate effort and can change the paradigm that a country that initially always prioritizes business interests, becomes a country that is pro-environmental. This is considering that the imposition of a carbon tax is considered to be able to reduce economic growth, as well as damage the competitiveness of the industry. An increase in production costs can also occur because of the

costs that must be paid to the carbon tax, thus causing the community to be affected as a group in the last transaction.

However, the statement that the community will be directly affected was denied by Kristiaji who stated that the carbon tax really supports the welfare of the poor. This is because extreme climate change can result in vulnerability and large adverse impacts for the poor [19]. From this statement, it strengthens Suahasil Nazara's statement regarding the provision of a carbon tax for the benefit of protecting the community at large.

Sri Mulyani (Minister of Finance) in her explanation to Commission XI of the House of Representatives of the Republic of Indonesia stated that a strong reason for implementing this carbon tax is Indonesia's commitment to reducing greenhouse gas emissions by 2030. Sri Mulyani that Indonesia has always experienced a shortage of funds to control climate change. So from this fact, the carbon tax becomes an option to add to the shortfall in costs [20].

The statement of Suahasil Nazara and Sri Mulyani certainly illustrates a foundation of commitment to achieve the target in 2030 through optimizing the green economy as a way to realize sustainable development. Sri Mulyani's statement is also in line with what was conveyed by the tax policy center that the allocation of tax revenue from the carbon tax can be used to improve the state budget deficit and to support the development of green energy.

From these various purposes and questions, it can be seen that at least there is a paradigm shift not only in the environmental field, but also in taxation. Siti Nurbaya's statement on development should not be stopped on the grounds that carbon emissions show the development paradigm as destructive, shifted by the establishment of a policy on the imposition of a carbon tax that prioritizes aspects of the public's interest, and in line with that the state also benefits from state revenues through the tax.

4 Conclusion

In this study it can be concluded that the legal politics of carbon tax regulation is closely related to aspects of environmental sustainability. In this study it was found that in the regulation of carbon taxes there has been a paradigm shift in development as a destructive thing to an environmentalist development and puts the interests of the community first. The legal politics shown in the determination of the carbon tax imposition policy is that environmental interests are prioritized, compared to economic interests. Whereas the imposition of a carbon tax can hamper the economy due to rising production prices. Carbon politics shows that the direction of the government's legal politics is to save the environment from natural damage. Therefore, with carbon politics, environmental control can be carried out optimally.

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