Empowering Local Communities Through Law: Balancing Energy Development and Water Access Rights

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ABSTRACT

The connection between energy development and water access rights shows major problems for local communities, especially in areas that are scarce in resources. This article investigates approaches to protect the water rights of the local communities through legal frameworks while maintaining sustainable energy advancement. It examines the conflict between the growth of energy development and the equitable access to water for essential needs, such as drinking and agricultural purposes. The article suggests some ways to balance energy development and water access rights by examining effective legal frameworks and community efforts. It concludes that it is important to have a legal approach within the community to protect the vulnerable populations and, at the same time, to achieve energy security and water sustainability.

Keywords: Energy development; Water access rights; Local communities; Water sustainability; Indigenous communities

INTRODUCTION

International law recognises that access to clean water and sustainable energy is necessary for human rights. Nevertheless, even with the recognition, local communities are in a vulnerable position due to the project developments that governments and corporations conduct. This can be seen when the government wants to construct national energy agendas, which causes environmental degradation and reduces water resources because of the expansion. Essentially, this issue has brought critical concerns about social justice, legal responsibilities and the protection of the communities that have a direct impact on their lives (Woods, 2023).

To address these issues, it is pivotal to view them based on the theoretical frameworks within energy law because they offer tools to examine these issues from ethical and institutional approaches. To further elaborate, the concept of energy justice highlights fairness in distributing energy's pros and cons, the empowerment of local communities and the reduction of environmental harm (Sovacool et al., 2021). It thoroughly reviews both traditional and renewable fossil fuel systems when they exclude communities from the decision-making processes. Simultaneously, in ecological modernisation theory, it is argued that economic growth can be aligned with environmental preservation through relevant technology advancements and effective legal frameworks (Mol et al., 2020). Besides, to add to the theoretical insights, the broader contexts of energy poverty and climate change should be discussed. This can be seen when many indigenous populations in rural areas are still struggling to access affordable energy due to the issues of welfare and human development (Rawls, 1971; Sen, 1999; Nussbaum, 2011). Hence, these theories help to highlight the importance of the fair transition to sustainable energy based on innovation, inclusive governance and accountability.

The issue of balancing water rights and energy development needs effective legal frameworks at the national and international levels. The United Nations Declaration on the Rights of Indigenous Peoples establishes that Indigenous communities must be granted (FPIC) before constructing any development projects in the area that could affect their resources. However, there is still a lack of implementation of this right, although the right was

recognised, particularly in countries where Indigenous and rural communities have limited legal recognition (Barelli, 2012). While the United Nations General Assembly acknowledged access to water as a fundamental right in 2010, it is still not fully implemented through binding legislation, especially in areas where the legal systems remain underdeveloped (United Nations, 2010).

Besides, to balance between energy development and equitable access to water, a legal framework that prioritises communities in governance processes is required. The community legal framework should not be seen as an additional measure, but instead, it should be the central pillar of sustainable development because it affirms the communities as the right-holders rather than just stakeholders and ensures that they have access to the resources. The resources include advocacy for environmental justice, legal aid and formal recognition of traditional land and water rights (Golub, 2010). This method is extracted from the energy justice principle that emphasises fairness in energy distribution and decision-making (Heffron & McCaukey, 2017).

There are many international cases that show the success of the legal system in encouraging efforts to defend water resources. For example, in Kenya, the African Commission on Human and Peoples' Rights supported the Endorois community since the commission acknowledged their right to land and access to water, which had been threatened by the development projects. This landmark ruling reveals the role of legal institutions in upholding community rights to natural resources (ACHPR, 2010). Meanwhile, in Colombia, legal innovations have been advanced because courts have recognised rivers such as the Atrato as legal subjects with actionable rights, which accepted the ecological significance of water bodies and the communities dependent on them (Kauffman & Martin, 2018). These illustrations show how judicial acknowledgement and legal representation can develop inclusivity and environmental awareness.

Nevertheless, the additional changes can be seen when the world has changed to renewable energy. The development of the wind energy projects and solar farms caused forced relocation and constrained the water rights. The Intergovernmental Panel on Climate Change also provides that extended droughts and the frequency of extreme weather events will continue, which limits the freshwater resources globally. Under these situations, the communities that suffered a harmful impact from the energy development will continue to be affected due to the poverty of geographic isolation (IPCC, 2023). The connection between the legal exclusion and climate vulnerability shows the need to reform to integrate climate robustness into the law that governs energy and water.

Communities must have access to legal representation that can be relied on, timely information about proposed developments and mechanisms for challenging rights-infringing decisions that threaten their rights to truly benefit from legal empowerment. National legal frameworks should also formally recognise and incorporate traditional ecological knowledge, which has long informed sustainable resource management by many indigenous and rural communities. Combining statutory law with culturally grounded and environmentally sound practices will produce fair and effective outcomes (Neef, 2009).

LITERATURE REVIEW

The growing urgency of climate change and the global movement toward sustainable energy solutions have made large-scale development projects such as hydropower dams, solar farms and infrastructure pipelines increasingly common. While these initiatives are integral to achieving national energy objectives, they often cause enormous strain on local ecosystems and communities, particularly concerning water access. Thus, legal frameworks are needed to address these issues. On the international front, frameworks such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Sustainable Development

Goals (SDGs) have called for governance that is fair, inclusive and sustainable. Nevertheless, these instruments need to be included in the domestic legal systems in order to be effective. The literature review discusses how Malaysia, South Africa and Canada address the relation between water access rights and energy development through legal inclusion.

This literature review was developed through theoretical and conceptual frameworks, which are energy justice, ecological modernisation and a holistic lens to investigate the relationship between energy development and water access rights. Two policy documents are integrated to apply the theory, which are the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) and Malaysia's National Water Resources

Policy (NWRP, 2012). Even though UNDRIP is not binding, it upholds the rights of Indigenous peoples through (FPIC) by setting out established standards of conduct that are in line with the objectives of energy justice. In the local context, meanwhile, NWRP in Malaysia demonstrates a planned approach to the management of water with reference to the comprehensive approach to environmental, economic and social issues; however, it is difficult to convert it to a practice. The policy is a strategic plan and even though it has limits, when it is used together with engagement and formal policy support, it can help to reach the goal of sustainability and justice. It is also observed that the implementation is not ideal because of the absence of enforcement mechanisms on the policy and also because of the scanty integration of the policy with legislation such as the Environmental Quality Act 1974.

The Malaysian case has a huge implementation gap. Although the NWRP presents elaborate strategies on integrated water governance, it lacks the legal power since it is only a policy. There is no institutional obligation of public participation and subsequent reporting; therefore, there is a lack of a clear mandate of enforcement. With these shortcomings, the policy becomes more unrealistic than realistic, particularly in Indigenous and rural areas where it mainly pertains to the issue of water insecurity, provoking the water insecurity issue by interacting with development pressures.

Furthermore, to examine a connection between energy development and water access rights, a multidimensional approach can be integrated along with the concepts of energy justice and legal empowerment. This is because the approach elucidates the fact that there is a need to balance the economic progress, the duty to the environment and the social equity in order to thrive sustainably in the long run. This approach also prioritises local communities as participants rather than passive recipients, which upholds the principles of energy justice, namely recognition, distributional justice and procedural justice. It supports inclusive decision-making, fair resource allocation and validation of Indigenous and marginalised identities. Integrating the conceptual framework with the holistic approach is essential to promote strong regulatory consistency and to align water and energy governance with border human rights and enduring sustainability objectives (Mol et al.; Heffron & McCauley, 2018).

Applying the decolonial legal framework in the context of Malaysia unveils how to shape the marginalisation of Indigenous communities, particularly in Sabah and Sarawak. The Indigenous claims in the court always fail due to the domination by colonial legal doctrines and are often excluded from statutory definitions. Feminist environmental perspectives also underscore that women, especially Indigenous women, suffer the most from water access issues because of their roles as caregivers and community water management.

The landmark United Nations Assembly Resolution 64/292 establishes the importance of recognition of access to clean water as part of fundamental human rights because it sets a precedent for countries to include water rights in their national frameworks. Nevertheless, there are differences in how the rights are being enforced in the nations. To determine whether a state includes fairness in the context of water and energy governance, three guidelines are applied from the principle of energy justice. The guidelines consist of three components, namely distributional justice, which is related to equal allocation, recognition justice, which involves acknowledging diversity and finally procedural justice, which emphasises inclusive and transparent outcomes (Heffron & McCauley, 2018; Jenkins et al., 2020). On the other hand, the ecological modernisation theory states that policy integration is vital as it offers economic progress and environmental sustainability. Thus, with the incorporation of the policy, it can help to balance the environmental and economic objectives in the context of energy and water governance.

There are a few nations that have validated nature as a matter of law and one of them can be seen in Colombia's Atrato River, which was granted legal personhood to ensure that the people can be the legal guardians and preserve it from environmental damage (Arsel et al., 2021). Besides, in Kenya, the Endorois case also achieved a legal turning point since the African Commission on Human and Peoples' Rights had confirmed that the Endorois people's water and cultural rights had been infringed by their forced eviction from their property for a water and development project. Ergo, this demonstrates the role of the law to preserve the environment and local communities.

Besides, one of the countries that portrays an advanced example is South Africa, since the right to access clean water has been recognised in the Constitution, specifically in Section 27 of the South African Constitution. Some

South African laws also favour fairness, sustainability and holistic resource governance, which can be seen in the Water Services Act (1997) and the National Water Act (1998). It is significant in the nation's model to focus on participatory governance. The Catchment Management Agencies (CMAs) can promote the decentralisation of water governance by approaching stakeholders and local communities in the management of water sources (Pahl-Wostl, 2019). The policy environment in South Africa promotes community-based management and sanitation practices through the integration of statutory law and traditional practices. However, enforcement problems still exist in terms of enforcement, especially when the resources are scarce. However, the South African case indicates the usefulness of constitutional guarantees. The use of participatory institutions, as well as incorporating resource management, is used to resolve conflicts between development and community rights. This can be used as a working model by Malaysia, which has not acquired a constitutional basis for water rights.

This participatory model of governance has a lot to offer Malaysia, where the Indigenous are not often considered in formal decision-making and statutory consultation as part of the EIA process is not the norm. The different legal traditions are capable of being harmonised with sustainable development, as illustrated by the incorporation of customary and statutory law in South Africa. The constitutional framework brings a significant element of sustainability in terms of water justice, although there are some logistical concerns in the rural areas regarding its enforcement.

The other country that can be explored is Canada, which also provides another different but equally community-based form of water governance that is commensurate with the Indigenous rights, as seen in Section 35 of the Canadian Constitution Act 1982, which gives recognition of the rights of the Indigenous people. The court has clarified that the rights should ensure such cultural practices, traditional land uses and distribution of resources such as water. The landmark case of Tsilhqot Nation v British Columbia (2014) is particularly significant in regard to Indigenous land rights since the court establishes consent-based decision-making. Based on this, Canada has imposed co-governance models such as Land Claim Agreements and Collaborative Management Agreements that involve Indigenous communities in a formal role in water governance. The First Nations Water Management Strategy, together with efforts under the Safe Drinking Water for First Nations Act, aims to resolve the Indigenous rights. This was supported by Arsenault et al. (2021), which views that these policies symbolise a change towards Indigenous-led water governance as they prioritise cultural values. Besides, Canada has made essential advances to recognise rivers and natural resources as legal persons, which was inspired by New Zealand and Colombia (O'Donnell & Talbot-Jones, 2018). These illustrate that Canada made a pathway for environmental guardianship by local communities.

Although Canada's approach is grounded in treaty-based government and federalism, Malaysia can be inspired to implement adaptive reforms by Canada's emphasis on co-management and indigenous legal pluralism. However, because Malaysia lacks the institutional and constitutional framework required for widespread replication, such models must be contextually tailored. Instead, these instances outline the significance of Indigenous-led stewardship, negotiated autonomy and FPIC.

On the other hand, Malaysia's water governance system exhibits a decentralised and fragmented structure. This is because there is no federal law that clearly recognises the right to water, according to the federal government. In East Malaysia, especially, people in Sabah and Sarawak have a federal government and a concept of customary rights (NCR). Even though the court has affirmed NCR in landmark cases, Sagong Tasi v Selangor and Nor Anak Nyawai v Borneo Pulp Plantation, the rights have not been recognised by persistent implementation or legislative reform (Cooke & Mei, 2012). Moreover, Malaysia also lacks statutory provisions for FPIC that protect communities with limited resources against development projects that disturb their water sources. The Environmental Quality Act 1974 does not provide a requirement for community consultation in EIAs and while the National Water Resources Policy 2012 offers a strategy for sustainability, it lacks a strong enforcement mechanism.

There is still an absence of regard for fundamental and legal recognition despite some legal reforms having been proposed by rights-based organisations such as SUHAKAM. SUHAKAM's National Inquiry into the Land Rights of Indigenous Peoples in Malaysia (2013) shows the exclusion of Orang Asli from land and water governance, especially in developing areas where access to clean water is violated without legal remedy. The Centre for Orang Asli Concerns (COAC) and reports by Jaringan Orang Asal SeMalaysia (JOAS) highlight the continuation of Indigenous communities being displaced, a lack of access to remedies and exclusion in water-

related planning and development. For instance, these organisations critique the government's failure to preserve UNDRIP standards and call for the institutionalisation of FPIC. Simultaneously, COAC's Nicholas (2010) calls for recognition mechanisms to be aligned with international norms because the statutory frameworks constantly undermine customary land and water rights.

Clear, rights-based water governance is still limited by this institutional fragmentation. Different countries frequently manage customary land claims differently and Indigenous people encounter legal ambiguity when attempting to enforce their rights. Malaysia still fails to enact its policy obligations since the capital does not have the legal countermeasures against environmental restitution and community participation.

Even with these challenges, opportunities for reform still exist. To bring the impetus of change, we allow people to understand the environmental rights, civil society advocacy and international duty. By embracing FPIC, the recognition of customary law and advocating inclusive governance, Malaysia can more effectively defend the communities served by legal recognition, joint decision-making and community empowerment and serve as the primary means of balancing development and access to water. All these reforms are an important priority that can help Malaysia create a more just and sustainable future.

To facilitate the comparative set of findings, South Africa focuses on participatory governance and legal requirements of community participation and such practice demands attention in rights-based constitutionalism. Conversely, Canada demonstrates a co-governance model, which can be discovered in treaty responsibilities and Indigenous normative systems, where First Nations influence water and policy management. On the other hand, the approach of Malaysia remains weak since it is not binding and has been marked by fragmented institutions. In order to progress, Malaysia can use examples of the two countries to provide legal obligation in constitutional acknowledgement of water rights, the involvement of the Indigenous peoples and giving an enforceable consultation practice and environmental responsibility process.

RESEARCH METHODOLOGY

This article utilises a hybrid legal methodology, combining both doctrinal and juridical-normative methods. The research base relies on a doctrinal approach, critically examining principal law sources from statutory provisions and policy structure to judicial precedent and international treaties. There is also a significant focus on tools such as the 2007 Declaration on the Rights of Indigenous Peoples by the United Nations and UN General Assembly Resolution 64/292 that identify access to drinking water as a human dignity right. The analysis extends to Malaysia's 2012 National Water Resources Policy, buttressed by constitutional framework reviews and leading case law headline summaries from jurisdictions like Canada and South Africa. With interjurisdictional differences, the study discovers trends in how legal systems strike a balance between hydropower schemes or fossil fuel projects and the protection of aquatic ecosystems and people's access to water. The given approach implies the prioritising of the critical study of acts of legislation and judicial interpretation rather than the systematic gathering of empirical evidence, which is in line with the classic doctrinal focus on normative legal thinking. The juridical-normative approach is adopted to critically debate the provision of justice, inclusivity and sustainability of the environment offered in present-world scenarios by these legal frameworks. This section applies the principles of energy justice, legal empowerment and ecological modernisation to question the effectiveness of the law enforcement process, where a high priority is placed on securing the Indigenous rights and improving their effective participation in the decision-making activity. Combining both approaches, the article does not focus solely on describing the current legal environment but, in addition to this, provides a comprehensive review of the success of these legal frameworks in terms of practice. It relies on global experience in which novel legal tools and governance mechanisms have been used to solve similar problems. In such a way, the research does not have any data or fieldwork and only legal text and literature were used to provide a clean body of theory and normative accent.

FINDINGS

A critical comparison and analysis of Malaysia's legal framework in terms of energy development and water access shows that the system has a lot of structural weaknesses, especially in terms of local and indigenous rights. Although Malaysia has implemented various industry-specific legislations that relate to the environment, land management, water governance and renewable energy, these laws operate in silos and lack coherence,

enforceability and inclusiveness. Consequently, they cannot support the ideals of energy justice, particularly the procedural, distributional and recognition ones.

The Water Act 1920 is the foundation of water legislation, yet it is now outdated. It is silent on anything about the acknowledgement of Indigenous and community-based water rights and represents the centralised, state-driven approach. This model is in contrast with the contemporary demands of participatory governance of resources and environmental responsibility. On the same note, the National Land Code 1965 has not put into law the Native Customary Rights (NCR) despite other landmark cases like Sagong Tasi and Nor Anak Nyawai having thrown their legality. The lack of codification produces the problem of legal ambiguity, especially when the energy infrastructure is overlaid with Indigenous or rural lands that are traditionally used as a source of subsistence, water collection, or other spiritual practices.

The implementation of environmental governance under the Environmental Quality Act 1974 (EQA) demands that significant development involve Environmental Impact Assessments (EIA). The EQA, however, does not compel any legal requirement for public consultation or community participation. Such developments can negatively affect access to clean water by rural and Indigenous communities because they are disproportionately affected groups due to this procedural omission. The absence of formal mechanisms of consultation wears down transparency as well as accountability.

The Sustainable Energy Development Authority Act 2011 and the Renewable Energy Act 2011 oversee the propagation of renewable energy. The good thing about these laws is that they could possibly prescribe funding and some controls that will facilitate the emergence of clean energy, yet they do not have anything to speak up on the social and environmental impacts of such projects as solar farms and the building of small-scale hydropower. There is no requirement for social impact assessment or community consultations, even where the projects are likely to threaten the water source or displace the residents.

Even though the National Water Resources Policy 2012 (NWRP) supports integrated water resources management, it is not legally binding. Such a policy lacks enforcement tools and is somewhat separate from other related legislation, such as the Waters Act or the EQA. This creates overlapping jurisdictions, institutional fragmentation and a lack of capacity to play bridging roles between development and the water needs of the communities.

Additionally, another legal gap is that there is no FPIC incorporated in any binding Malaysian law, including environmental, land, or water law, despite the recognition of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by Malaysia. This has primarily affected the communities because they are excluded from any decision-making process that could influence their water access rights and livelihoods. The discussion from the National Inquiry into the Lands of Indigenous People also illustrates the effects of flaws.

In contrast, South Africa has more inclusive and effective governance, which can be seen in Section 27 of its Constitution. The rights of Indigenous communities are incorporated into the legislation, such as in the National Water Act 1998 and the Water Services Act 1997. These laws are also supported by the agency, which includes Catchment Management Agencies (CMA), to include participation in any decision-making process that could affect their lives.

Besides, Section 35 of the Canadian Constitution provides similar Indigenous rights in Canada and this is supported by the case of Tsilhqot'in Nation v British Columbia (2014), which reveals the value of consent-based governance. In addition, Canada also has a policy that embeds co-governance, which is known as the First Nations Water Management Strategy. The legal doctrines that are influenced by precedents in Colombia and New Zealand also help Canada to uphold Indigenous rights since they reinforce the ecological and cultural importance of natural water bodies.

Hence, the comparative jurisdictions prove that Malaysia is still far behind in safeguarding the communities in a legal sense. The need to reform is obvious since Malaysia's current legal framework is not sufficient to protect the rights of the Indigenous people. To achieve the balance between energy development and water accessibility rights, it is necessary to include Indigenous rights by making FPIC a binding provision and including statutory mechanisms. Therefore, Malaysia could take Canada and South Africa as examples to achieve more sustainable and equitable energy-water governance.

DISCUSSION

Concerning the way the government employs modern architecture to ensure the development of energy and water governance, it is depicted that flaws are pretty serious in mediating both the equality between two competing dimensions of environmental sustainability and social justice. This imbalance is felt strongly by the Indigenous and rural communities, as the traditional focus on the land and water by such people is yet to be aptly secured by the forces of the law. Although there are several sector-specific legislations regulating the environmental quality, water, land and renewable energy, these frameworks are disjointed and fail to be integrated. The effects are procedural exclusion, regulatory fragmentation and a normative vacuum where the local communities have no voice and are deprived of a meaningful redress.

This institutional weakness is brought about by a historic contradiction in Malaysian governance. The state has not enacted powerful laws to guard the rights of the communities affected by the large-scale energy resources and infrastructural developments, including renewable energy infrastructures, despite the fact that they contribute a lot to this infrastructural progress. This disconnect can be empirically seen in the experience of the Indigenous peoples, such as the displacement, systematic exclusion of Indigenous peoples in environmental decision-making processes, the inconsistency of compensation and the absence of any legal redress notice on the National Inquiry into the Land Rights of Indigenous Peoples (SUHAKAM, 2013). Malaysia is one of the countries that joined the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which states that Free, Prior and Informed Consent (FPIC) is an important aspect of any development, including the Indigenous lands and resources; however, such realities exist (Barelli, 2012).

It is specifically the existing energy justice theoretical framework that is useful in the process of pointing out the normative gaps of the Malaysian legal institution itself. Energy justice promotes three interdependent principles that are procedural, recognition and distributional justice, all of which are routinely infringed in Malaysian environmental governance (Heffron & McCauley, 2017). Procedural justice involves active participation in decision-making and the Environmental Quality Act 1974 does not state any legal obligation of public consultation of the people in the Environmental Impact Assessments (EIAs). This omission is not a technical oversight but an indication of a broader failure to institutionalise participatory governance, thus ruining the community autonomy and agency (Aziz, Rahman, & Hamzah, 2021). On the same note, the National Water Resources Policy 2012 (NWRP), which has noble goals of integrated water resource management, is not legally binding and suffers from weak implementation and poor statutory alignment (Ministry of Natural Resources and Environment Malaysia, 2012).

Besides, another core aspect of energy justice, which is recognition justice, is essential to look into because it acknowledges the unique historical background and cultural identities of the affected communities. Looking from the perspective of recognition, justice is important since the National Land Code 1965 does not recognise Native Customary Rights (NCR), which leaves the Indigenous communities to claim land and water access rights based on judicial discretion rather than legislative guarantee. The absence of corresponding statutory recognition demonstrates legal ambiguity and renders the communities vulnerable to encroachment and displacement despite the landmark decision in the case of Sagong Tasi v Selangor that recognises NCR. This circumstance proves the term “colonial hangover” that marginalises non-Western systems of property and governance.

The comparative jurisdiction analysis shows the need for reform. One of the countries that offers a significant example of social and environmental rights is South Africa, which guarantees access to sufficient water as a human right through statutes such as the National Water Act 1988 and the Water Services Act 1977. These acts also collectively collaborate with stakeholders in the decision-making process, such as the Catchment Management Agencies. Correspondingly, Canada also has an advanced law to protect the rights of the communities since the rights are protected in Section 35 of the Canadian Constitution. This provision includes explaining the law to include water and land governance as a right of the Indigenous Peoples.

In addition, other comparative jurisdictions can be seen in other countries to help protect nature and the environment through regulation. Firstly, in Colombia, the environmental governance can be observed from the court’s ruling to recognise the Atrato River as a legal person. Besides, the same development of law can be perceived in countries such as New Zealand and India because the countries also identified rivers such as the Whanganui and the Ganges as legal entities to build legal validity of frameworks. These cases show the impact of having frameworks that include cultural connections in the law.

The future of Malaysia requires more than statutory changes. In order to prioritise community agency, environmental protection and Indigenous legal customs, a systemic realignment of institutional and legal frameworks is necessary. This includes incorporating FPIC into environmental, water and land laws by acknowledging and codifying NCR through statutes in both federal and state law and establishing legally binding procedures for participation at every level of project execution and policy creation. By harmonising the existing legislation, this would resolve the current fragmentation between sectoral laws and overlapping jurisdictional mandates, which delays coordination and erodes accountability.

Moreover, civil society must be acknowledged as a key player in this change. Documenting abuses, organising community opposition and developing alternative governance models have all been made possible by organisations like Jaringan Orang Asal SeMalaysia (JOAS) and the Centre for Orang Asli Concerns (COAC). Jaringan Orang Asal SeMalaysia (JOAS) and the Centre for Orang Asli Concern (COAC) have documented abuses, organised community opposition and developed alternative governance models. Nonetheless, the absence of formal participatory institutions has frequently hindered their efforts. The legitimacy and effectiveness of environmental law would be improved by integrating these players into existing formal governance structures.

In conclusion, for Malaysia to address the social and environmental issues of this century, an amendment to its legal system must be made. This task is essential to combat the socio-environmental displacement, water insecurity and climate vulnerability that are occurring, as well as the existing disparities in the absence of significant legal reform. As has been cited and referred to in this study, international practices guided by the theoretical principles of energy justice, legal empowerment and ecological modernisation, this study argues it is essential for Malaysia's legal system to acknowledge the rights of Indigenous people and communities, uphold participatory legal mechanisms and integrate environmental management into the water-energy governance. By undergoing such comprehensive reform, Malaysia would attain a more just, inclusive and environmentally resilient governance.

RECOMMENDATION

Malaysia's legal framework must undergo substantive reform to achieve a more equitable, inclusive and environmentally accountable model of development in this country. The purpose of these reforms is to empower local communities, predominantly Indigenous and rural groups and at the same time to make sure that energy development does not restrict the fundamental water rights. There are a few recommendations that can be proposed to assist future legislative and policy directives that are based on the energy justice, ecological modernisation and legal empowerment theories.

Firstly, it is important to codify (FPIC) into Malaysian law. The principle of FPIC has not been integrated into Malaysian binding law yet, despite Malaysia's endorsement of the UNDRIP. Due to the absence of the FPIC principle in the laws that govern land use, environmental protection and water management, this has caused the development projects to be conducted without the community's consent, which resulted in displacement and loss of access to water resources. If the FPIC were included in the statutory framework, it would impose a legal duty on the developers to engage in transparent and appropriate consultation. This would provide the local communities with the rights against exploitation and improve procedural justice (Barelli, 2012).

Moreover, the legal recognition of Native Customary Rights (NCR) must be made within the federal and state laws. The lack of codification of NCR in statutes such as the National Land Code 1965 creates ambiguity and vulnerability despite the landmark decision in Sagong Tasi and Nor Anak Nyawai that affirmed the NCR. Hence, the statutory framework should be clear to provide consistent jurisdictions that protect the Indigenous control over land and water (Cooke & Mel, 2012; Idrus & Ibrahim, 2022).

Thirdly, a change to the Environmental Quality Act 1974 is needed to enforce fair and binding public participation of the people in the Environmental Impact Assessment (EIA) process. At the moment, the law does not mandate the involvement of the affected communities and as such, the development decisions have been made with a lack of proper local participation. A change in the EQA 1974 that would introduce compulsory consultation would increase the social acceptability and legitimacy of energy initiatives while guaranteeing that the environmental assessments would accommodate the regional demands regarding local water availability and ecosystem safety (Aziz, Rahman, & Hamzah, 2021).

Moreover, Malaysia should also handle the disintegration of its legal systems. The specific laws that cover the sectors, like the Water Act 1920, National Land Code 1965, Renewable Energy Act 2011 and Environmental Quality Act 1974, are leading off in silos and in doing so, overlapping jurisdiction and inefficiencies have been created. The introduction of a harmonised and integrated approach to the legislation, like a compact Environmental and Resource Governance Act, would aid in the facilitation of matters like cross-sectoral planning, clarification of institutional mandates and the facilitation of water-energy-land conflicts. This is consistent with the concept of ecological modernisation and it would enhance the policy coherence as well as environmental accountability (Ministry of Natural Resources and Environment Malaysia, 2012).

It is also important to institutionalise the participatory governance and Indigenous co-management models. By drawing lessons from other countries, it is within the power of Malaysia to follow the models that are similar to South Africa's Catchment Management Agencies and Canada's co-governance arrangements under its First Nations Water Management Strategy. Mechanisms to ensure the community representation in decision-making bodies could be entrenched in law and this would make the culture, as well as water and energy governance, more democratic. The involvement of traditional ecological knowledge in the so-called formal regulatory practices would also be beneficial for long-term sustainability and conflict resolution (Pahl-Wostl, 2019; Arsenault et al., 2018).

Malaysia must consider the legal recognition of ecosystems through rights of nature frameworks. As can be seen in Colombia (Atrato River), New Zealand (Whanganui River) and India (Ganges and Yamuna Rivers), legal personhood for rivers and other ecologically significant entities offers a transformative approach to environmental protection. By recognising rivers as legal persons, it reframes ecosystems as right-bearing entities, allowing communities to act as guardians and litigate on behalf of the rivers. If Malaysia adopted this framework and recognised rivers as legal persons under Malaysian law, it would allow for a more holistic and values-based form of environmental governance, especially in protecting freshwater sources essential to rural and Indigenous livelihoods (Kauffman & Martin, 2018; O'Donnell & Talbot-Jones, 2018).

Lastly, it is recommended that programs for legal empowerment be expanded and formalised throughout Malaysia to include improvements to legal aid accessibility and streamlining the administrative processes for land and water claims and increasing public legal education, especially in remote rural areas. Communities that are stronger are able to stand up for their rights, participate in governance and hold institutions accountable.

When combined, these suggestions show how urgently a rights-based, inclusive and progressive legal reform agenda is needed. Malaysia can create a governance structure that is balanced in terms of energy development and the preservation of water access and community well-being by establishing community rights, strengthening participatory mechanisms, harmonising legal frameworks and embracing environmental innovation. Such reforms are not only necessary for legal justice but also essential for social stability, climatic resilience and sustained national growth.

CONCLUSION

To summarise, energy development and the right to access water are severe ethical and legal conflicts on the part of Malaysian Indigenous and rural populations, especially. The success of participatory government, constitutional protection and Indigenous-controlled systems is demonstrated by other international models such as South Africa and Canada. However, the present Malaysian setup, in terms of law, remains fragmented, outdated and irrelevant. Lack of both legally enforceable procedures of Free, Prior and Informed Consent (FPIC) and statutory procedures of recognition of Native Customary Rights has, nonetheless, marginalised affected communities. To proceed further, Malaysia needs to introduce exclusive amendments that would align the legal frameworks, include the conditions of environmental justice and codify Indigenous rights. In doing so, the country can endorse a more equitable, ecologically viable and community-based kind of rule that actually balances progress and ecological conservation, not to mention the dignity of human beings.

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