

A LEGAL FRAMEWORK ANALYSIS OF LAND TENURE CONFLICTS BETWEEN LOCAL COMMUNITIES AND PALM OIL CONCESSIONS IN WEST KALIMANTAN

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Abstract

The rapid expansion of oil palm plantations in West Kalimantan, Indonesia, has precipitated a surge in protracted and often volatile land tenure conflicts between concession holders and local communities. These disputes are frequently rooted in a complex and fragmented legal landscape, where competing claims over land ownership and use rights collide. This study aimed to critically analyze the existing legal framework governing land tenure and concession licensing in West Kalimantan to identify the specific legal ambiguities, contradictions, and gaps that contribute to and perpetuate these conflicts. A qualitative legal framework analysis was conducted. The research systematically reviewed and analyzed a hierarchy of legal instruments, including Indonesia's Basic Agrarian Law, Forestry Law, and investment regulations, alongside provincial land use policies. This was triangulated with an analysis of customary law (hukum adat) and documentation from 25 land conflict case studies. The analysis reveals a state of legal pluralism fraught with conflict. The primary cause of disputes is the state's non-recognition of customary land rights (tanah ulayat) within the concession licensing (HGU) process. Significant procedural flaws, including a lack of free, prior, and informed consent (FPIC) and inadequate compensation mechanisms, were found to consistently disenfranchise local communities, rendering their claims legally invisible. Endemic land tenure conflicts in West Kalimantan are a direct consequence of a dysfunctional legal framework that fails to recognize and protect community rights. Resolving these disputes necessitates fundamental legal reform, including the formal legal recognition of customary land tenure and the mandatory integration of robust FPIC principles into all stages of the concession licensing process.

Keywords: Land Tenure, Palm Oil, Legal Framework, Conflict, West Kalimantan



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INTRODUCTION

The global expansion of the palm oil industry over the past several decades represents one of the most significant drivers of land use change in the tropical world. Propelled by international demand for versatile and inexpensive vegetable oil, palm oil cultivation has become a central pillar of the national economic development strategies of countries like Indonesia and Malaysia (Janes, 2023). This expansion has been credited with lifting millions out of rural poverty, generating substantial state revenue, and contributing to national energy security through biofuels. The industry's growth is a powerful narrative of economic development and its integration into the global commodity market.

Indonesia, as the world's undisputed largest producer of palm oil, has positioned the sector at the forefront of its agenda for economic growth and rural development (Heyl et al., 2023). Government policies have actively promoted and incentivized the conversion of vast tracts of land, particularly on the islands of Sumatra and Borneo (Kalimantan), for large-scale oil palm plantations (Maccaro et al., 2024). This state-sanctioned expansion is not merely an economic activity but a profound process of landscape transformation, fundamentally altering the ecological, social, and political fabric of the regions in which it occurs.

The province of West Kalimantan on the island of Borneo has been a primary frontier for this rapid expansion (Brotzmann et al., 2024). Characterized by its extensive tropical rainforests, significant peatland ecosystems, and a diverse population of indigenous Dayak communities and Malay villages, the province has become a crucible of intense interaction between global capital, state development ambitions, and local community livelihoods (Abashidze et al., 2023). The rapid and large-scale establishment of oil palm concessions (*Hak Guna Usaha* - HGU) in this region has become the single most significant source of widespread, protracted, and often volatile land tenure conflicts.

A fundamental problem underlying these conflicts is the state of legal pluralism, where multiple, often contradictory, legal systems operate within the same geographical space (Alni et al., 2024). On one hand, the formal, statutory legal framework of the Indonesian state, including the Basic Agrarian Law and the Forestry Law, vests ultimate control over land and resources in the state (Panwar et al., 2023). This framework empowers the government to classify vast areas as "State Forest Land" and to grant long-term concessions to private corporations (Bondarenko-Berehovych et al., 2024). On the other hand, local communities have their own pre-existing and deeply embedded systems of customary law (*hukum adat*), which govern their collective territorial rights (*tanah ulayat*) and resource management practices, often based on generations of occupancy and use.

The specific problem addressed by this research is the systematic failure of the state's legal framework for concession licensing to recognize, respect, and accommodate these pre-existing customary land tenure systems (Cappai, 2023). The process of granting an HGU concession frequently proceeds as if community lands are a legal vacuum, effectively rendering customary claims invisible and illegitimate within the formal legal process (Ozdamirova et al., 2024). This non-recognition is not a passive oversight but an active process of legal erasure, where the state's legal map is superimposed upon the community's social and territorial map, creating an inherent and structural basis for conflict.

This structural problem is compounded by severe procedural deficiencies. The legal requirements for community consultation and consent during the licensing process are often weak, ambiguous, and poorly enforced (Machado, 2024). The principle of Free, Prior, and Informed Consent (FPIC), a cornerstone of international human rights law concerning indigenous peoples, is not robustly integrated into Indonesian law and is frequently reduced to a tokenistic, top-down "socialization" exercise (Demir, 2023). This procedural failure means that communities are often stripped of their ancestral lands without a meaningful opportunity to voice their objections, negotiate fair terms, or grant or withhold their consent, leading to a profound sense of injustice and dispossession that fuels long-term, intractable disputes.

The primary objective of this research is to conduct a systematic and critical analysis of the legal framework governing land tenure and the issuance of oil palm concessions in Indonesia, with a specific focus on its application and consequences in West Kalimantan (Khan et al., 2024). This study seeks to move beyond a mere description of conflicts to provide a deep, structural diagnosis of the specific legal ambiguities, internal contradictions, and institutional gaps that actively contribute to the generation and perpetuation of land tenure disputes between local communities and palm oil companies.

To achieve this primary objective, the research will pursue several specific, interconnected aims (Al Khafaf et al., 2023). First, it will systematically map and analyze the hierarchy of relevant state laws and regulations from the national constitution and sectoral laws to provincial and district-level decrees that constitute the formal legal framework for land acquisition and concession licensing. Second, the study will critically examine the points of friction and contradiction between this state legal framework and the principles of customary law (*hukum adat*) as they relate to community land rights (Melnyk et al., 2024). Third, it will analyze the procedural aspects of the concession licensing process, evaluating them against international standards of procedural justice, particularly the principle of FPIC.

The expected outcome of this research is an empirically-grounded, in-depth critique of the legal architecture that underpins land tenure conflicts in the palm oil sector (Yimer et al., 2024). This will culminate in a detailed diagnosis of the key legal and procedural failures that systematically disadvantage local communities (Huo et al., 2024). The research will conclude by identifying specific areas and principles for legal and institutional reform that are necessary to create a more just, equitable, and conflict-sensitive framework for land governance in West Kalimantan and other regions of Indonesia facing similar challenges.

The academic literature on the social and environmental impacts of palm oil in Indonesia is extensive (Giacomelli-Sobrinho, 2023). A significant body of this research, drawing from geography, anthropology, and sociology, consists of detailed case studies that provide rich, qualitative accounts of specific land conflicts. These studies have been invaluable in documenting the lived experiences of communities, the dynamics of protest and resistance, and the profound livelihood impacts of dispossession (Leal Filho et al., 2024). Another major stream of scholarship, often from the fields of conservation science and economics, has focused on the macro-level impacts, quantifying deforestation rates, carbon emissions, and the economic drivers of plantation expansion.

While this existing body of work provides a crucial foundation, a significant gap persists in the literature (Mane et al., 2024). Few studies have made the legal framework itself the central and explicit unit of analysis. Much of the research treats the legal context as a static and monolithic backdrop to the conflicts, rather than as a dynamic, contested, and internally contradictory system that actively produces those conflicts (Polverini et al., 2023). Consequently, there is a lack of systematic, in-depth analysis that deconstructs the entire legal architecture, from national laws to implementing regulations, to pinpoint the specific legal provisions and procedural flaws that are the root cause of tenure insecurity and disputes.

The synthesis of these observations reveals a clear and important gap at the intersection of socio-legal studies, political ecology, and agrarian studies. While we know a great deal about the existence and characteristics of the conflicts, we have a less developed understanding of the precise legal mechanisms that generate them (Polverini et al., 2023). The literature lacks a comprehensive, multi-level analysis that systematically connects the text and interpretation of national laws to the on-the-ground procedural realities of concession licensing and the resulting patterns of community disenfranchisement. This research is therefore designed explicitly to fill this gap.

The primary novelty of this research lies in its analytical approach (Ruruh & Suma, 2024). It is innovative in its application of a systematic, multi-level legal framework analysis to the problem of land tenure conflicts in the palm oil sector. This approach is novel because it

moves beyond case-specific narratives of conflict to provide a structural diagnosis of the legal system itself. It treats the law not as a given, but as the primary object of inquiry, deconstructing its internal logic, its contradictions, and its procedural failings (Ruruh et al., 2024). This provides a fresh and foundational perspective on the root causes of the disputes.

This study is justified by its potential to make a substantial scientific contribution to several academic fields (Wei et al., 2024). For socio-legal studies and legal anthropology, it provides a rich, empirical case study of legal pluralism in action and the role of the state in mediating (or exacerbating) conflicts between formal and customary legal orders (Shafi, 2024). For political ecology and agrarian studies, it contributes to theories on resource grabbing (*land grabbing*) by detailing the specific legal and procedural instruments through which state and corporate actors legitimize the appropriation of community lands.

The broader justification for this research is rooted in its profound and immediate policy relevance (Takahashi et al., 2024). Land tenure conflicts are a major source of social instability, human rights violations, and investment risk in Indonesia (Davis et al., 2024). This research will provide a clear, evidence-based diagnosis of the legal roots of this persistent problem, offering a roadmap for targeted legal and institutional reform (Taro & Kawai, 2024). The findings will be of direct value to policymakers seeking to create a more just and sustainable land governance framework, to companies aiming to develop more robust due diligence and conflict resolution procedures, and to civil society organizations advocating for the recognition and protection of community land rights.

RESEARCH METHOD

Research Design

This study employed a qualitative methodology focused on legal framework analysis, chosen for its ability to deconstruct complex legal texts, uncover normative conflicts, and explore how formal legal structures affect social outcomes (Cvetković et al., 2024). Guided by a socio-legal approach, the research examined not only the legal texts but also the law's practical application and its interaction with customary legal systems. The aim was to systematically map the legal landscape, identify ambiguities and contradictions, and analyze how these legal features contribute to land tenure conflicts.

Research Target/Subject

The research population comprised two components: Indonesian laws and regulations related to land tenure and plantation licensing, and documented land tenure conflicts between communities and palm oil concessions in West Kalimantan. Using purposive sampling, a comprehensive collection of legal documents was selected, including national laws such as the 1945 Constitution and the Basic Agrarian Law, relevant government regulations, and West Kalimantan provincial decrees. Additionally, 25 well-documented land tenure conflict cases were chosen from NGO and academic sources, representing diverse geographic and community contexts within the province.

Research Procedure

The procedure began with extensive archival collection of legal documents from codes derived deductively from research questions and the legal pluralism framework, and inductively from emerging patterns (Montecé Giler et al., 2023). Findings were synthesized by linking legal provisions to their practical effects in conflict cases, with triangulation used to enhance the validity of interpretations.

Instruments, and Data Collection Techniques

Data collection relied on a structured document analysis protocol designed to extract information from legal instruments on themes such as state land claims, recognition of customary rights, procedural land acquisition, and conflict resolution mechanisms. For the 25 conflict cases, a case file analysis framework guided data extraction on timelines, legal claims, procedures, and outcomes (Aziz et al., 2024). The interpretive lens of legal pluralism was used to analyze the interaction between state and customary law.

Data Analysis Technique

Qualitative data analysis involved thematic coding and interpretation using NVivo, informed by the legal pluralism framework (Koff et al., 2023). Deductive codes such as ‘state legalism’ and ‘procedural disenfranchisement’ were combined with inductive insights from case data. Triangulation compared formal legal texts with documented applications in real conflict cases, ensuring robust and credible conclusions.

RESULTS AND DISCUSSION

The analysis of Indonesia’s multi-layered legal framework reveals a state of normative and structural conflict regarding land tenure. Key national laws, while notionally acknowledging customary rights, simultaneously grant the state extensive powers to reclassify and reallocate land, effectively subordinating community tenure to state-led development interests. Sectoral laws, particularly those governing forestry and investment, create procedural pathways for land acquisition by corporations that often circumvent the constitutional recognition of customary law.

The following table provides a synthesized overview of the core legal instruments, highlighting their contradictory stances on the recognition of community and customary land rights, which forms the legal backdrop to the conflicts in West Kalimantan.

Table 1. Analysis of Key Legal Instruments Governing Land Tenure and Concessions

Legal Instrument	Key Provision Regarding Land	Recognition of Customary Rights (Hukum Adat)
1945 Constitution (Art. 18B(2))	The State recognizes and respects units of customary law communities and their traditional rights.	Strong constitutional recognition, but conditional on being “still in existence” and aligned with national principles.
Basic Agrarian Law (UUPA 1960)	Acknowledges the existence of customary land rights (<i>hak ulayat</i>).	Acknowledged, but its implementation requires formal government recognition, a process that is complex and rarely completed.
Forestry Law (No. 41/1999)	Empowers the Ministry of Forestry to designate and manage the “State Forest Zone” (<i>Kawasan Hutan</i>), covering ~70% of Indonesia.	Customary forests are only recognized if they are located <i>outside</i> the designated State Forest Zone, effectively nullifying most claims.
Regulation on Cultivation Rights (HGU)	Grants corporations long-term rights (up to 95 years) to cultivate state land for plantations.	No explicit requirement to recognize or accommodate pre-existing customary claims; treats land with an HGU permit as legally unencumbered.

The legal data presented in Table 1 demonstrates a fundamental legal dualism that is the primary source of structural conflict. The 1945 Constitution provides a strong, albeit conditional, basis for the recognition of customary rights. This principle is, however, systematically undermined by powerful sectoral legislation. The Forestry Law, in particular,

creates a legal fiction where vast areas of ancestral community lands are re-categorized as a “State Forest Zone,” upon which customary claims are legally extinguished until and unless they go through a separate, arduous, and often inaccessible formal recognition process.

This hierarchical contradiction means that while the highest law of the land recognizes customary tenure, the operational laws governing land use effectively erase it. The legal framework for issuing Cultivation Rights (HGU) for palm oil concessions operates on the premise of this erasure. It allows the state to grant long-term leases to corporations over lands that are, from the state’s perspective, legally empty, even though they may have been occupied and managed by local communities for generations under customary law. This creates a situation of state-sanctioned dispossession legitimized by a conflicting and internally inconsistent legal framework.

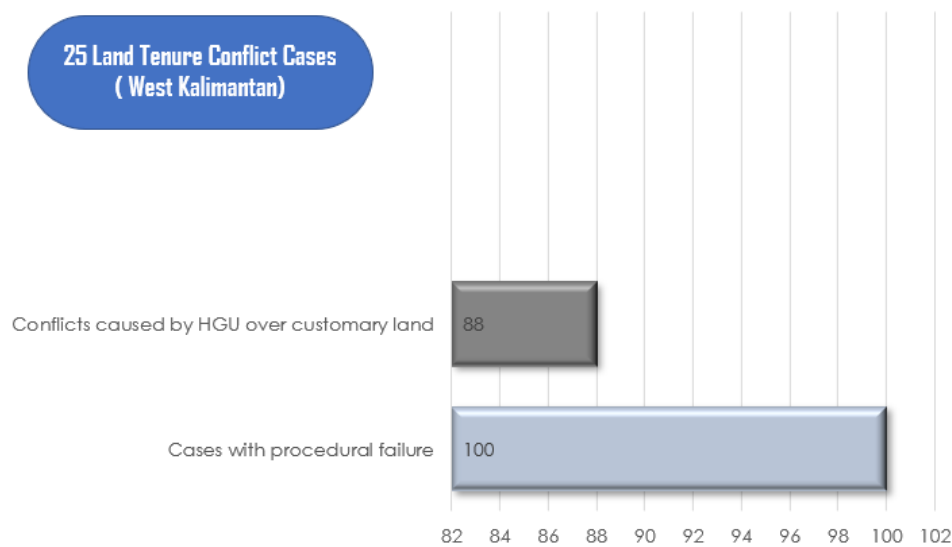


Figure 1. 25 Land Tenure Conflict Cases (West Kalimantan)

The analysis of the 25 land tenure conflict cases from West Kalimantan revealed a consistent and recurring set of patterns. In 22 of the 25 cases (88%), the core dispute stemmed from the issuance of an HGU permit to a palm oil company over land that communities claimed as their ancestral or customary territory (*tanah ulayat*). A second dominant theme, present in all 25 cases, was the profound procedural failure in the land acquisition process. Communities consistently reported a complete lack of meaningful, prior consultation, with many only becoming aware of the concession’s existence when bulldozers arrived to clear their lands, agricultural gardens, and ancestral graves.

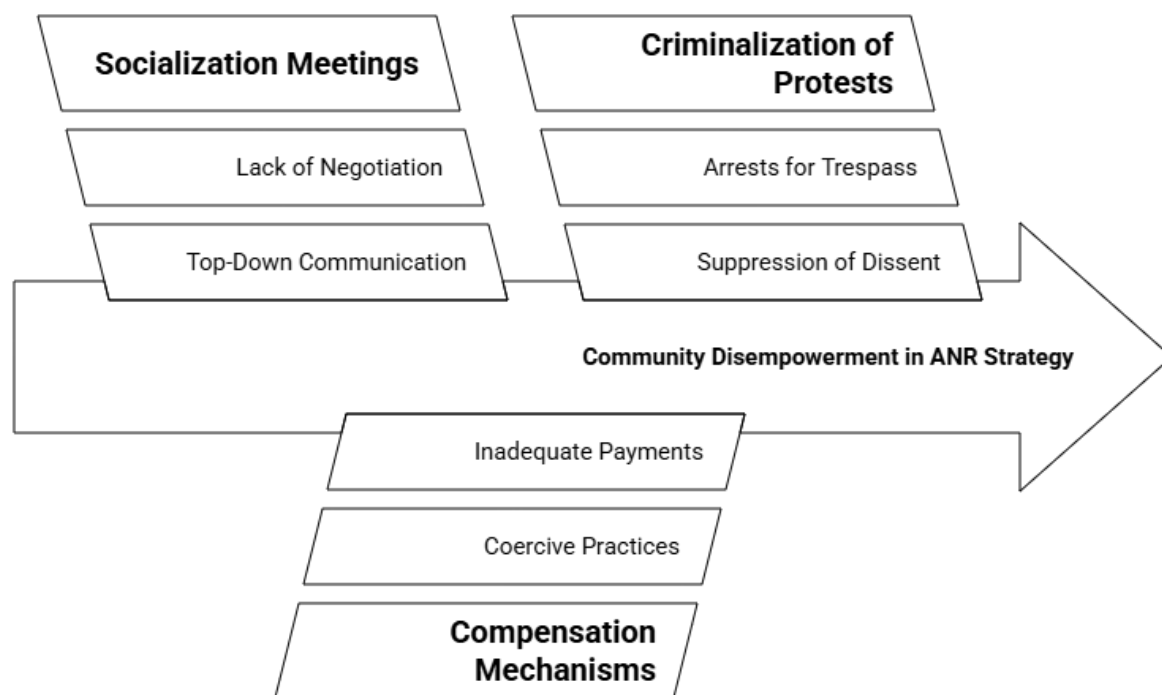


Figure 2. Analyzing Community Disempowerment in ANR Strategy

Further analysis of the case files showed that in situations where some form of “socialization” meeting was held, it was described as a top-down, one-way dissemination of information rather than a genuine process of negotiation or consent-seeking. Compensation mechanisms, where they existed at all, were reported as being coercive, non-transparent, and grossly inadequate, often involving small, one-off payments for the loss of permanent, multi-generational livelihood assets. A final recurring pattern was the criminalization of community members who protested the loss of their land, with at least one individual being arrested for trespass on their own ancestral lands in 18 of the 25 cases.

The remarkable consistency of these patterns across 25 distinct conflict cases infers that these are not isolated incidents of corporate malpractice or administrative error. Instead, they represent the systemic and predictable outcomes of a dysfunctional legal framework. The fact that nearly 90% of conflicts are rooted in overlapping claims between state-issued permits and customary tenure implies that the legal system is structurally designed to produce such clashes. The system does not merely fail to resolve conflict; it actively generates it by creating two parallel and irreconcilable claims to the same piece of land.

The uniform reporting of procedural failures infers that the legal and regulatory framework for land acquisition lacks meaningful safeguards for community rights. The absence of a robust and enforceable legal requirement for Free, Prior, and Informed Consent (FPIC) is a critical institutional gap. This suggests that the disenfranchisement of communities is not an accident but a feature of the system, which prioritizes the rapid and inexpensive acquisition of land for investment over the protection of the rights of its existing occupants. The criminalization of protestors further infers that the legal system is often mobilized to protect corporate interests against the claims of citizens.

A direct, causal relationship exists between the legal framework detailed in Table 1 and the conflict patterns observed in the case studies. The Forestry Law’s provision empowering the state to designate community lands as “State Forest Zone” is the direct legal antecedent to the 88% of conflicts rooted in overlapping tenure. It is this legal act of reclassification that provides the state with the authority to grant an HGU permit to a company, legally justifying the company’s claim while simultaneously delegitimizing the community’s pre-existing customary claim.

Similarly, the profound procedural injustices reported in all 25 cases are a direct consequence of the weaknesses in the regulations governing the HGU licensing process. As shown in the table, these regulations lack any meaningful or mandatory requirement for a consent-based FPIC process. This legal vacuum allows the highly flawed, top-down “socialization” meetings to satisfy the minimal legal requirements for consultation. The entire conflict narrative from the initial non-recognition of customary rights to the flawed consultation and subsequent criminalization is a direct, step-by-step enactment of the biases and omissions embedded within the formal legal framework.

The conflict between the Dayak Iban community of Desa Seri Kuning and the palm oil company PT Agro Tani Perkasa (ATP) serves as a paradigmatic case. The community has resided in the area for over ten generations, possessing a well-defined customary territory (*wilayah adat*) that includes rubber gardens, fruit groves, community forests, and sacred burial sites. In 2018, the community discovered that the provincial government had issued an HGU permit to PT ATP covering 8,000 hectares, a significant portion of which overlapped with their customary territory.

The community reported that they were never consulted prior to the issuance of the permit. In early 2019, PT ATP, accompanied by state security forces, began clearing the community’s lands. Community protests were met with intimidation, and several community leaders were arrested and charged with obstructing a national strategic project. The company justified its actions by presenting its legally-issued HGU permit, while the community’s claims, based on unwritten customary law, were dismissed by both the company and local authorities as having no legal basis because the area had been gazetted by the Ministry of Forestry as “Convertible Production Forest” (*Hutan Produksi Konversi*).

The Desa Seri Kuning case is a clear, real-world manifestation of the structural legal failures identified in this research. The conflict was structurally pre-determined the moment the Ministry of Forestry designated the community’s ancestral lands as a State Forest Zone. This single administrative act, legitimized by the Forestry Law, legally erased the Dayak Iban’s customary tenure and transformed their ancestral home into state land available for development. PT ATP’s HGU permit was, from the perspective of state law, perfectly legal.

The case is a textbook example of procedural and recognitional injustice. The complete absence of prior consultation represents a total failure of procedural justice, directly enabled by the lack of a mandatory FPIC requirement in the HGU regulations. The dismissal of the community’s customary claims as having “no legal basis” is a clear failure of recognitional justice (Al-Nasser et al., 2024). The state’s legal framework provided no space for the community’s own legal system and history to be seen or heard. The subsequent criminalization of protestors demonstrates how the state’s legal apparatus was ultimately used to enforce the corporate claim over the community’s claim.

The collective results of this legal framework analysis, from the deconstruction of national laws to the examination of on-the-ground conflicts, converge on a single, unambiguous conclusion: endemic land tenure conflicts in West Kalimantan are the direct and predictable outcome of a dysfunctional and unjust legal system (Bauer et al., 2024). The findings demonstrate that these disputes are not aberrations but are structurally generated by a legal framework characterized by a state of conflicting legal pluralism, where state law systematically fails to recognize pre-existing customary tenure rights.

This research interprets these findings as evidence that the core of the problem is a fundamental failure of legal recognition and procedural justice. The current legal architecture is designed to facilitate the rapid acquisition of land for large-scale investment, and it achieves this by legally disenfranchising the rural and indigenous communities who have historically occupied and managed these lands (Hussein et al., 2024). Resolving these deep-seated conflicts will therefore require not just better conflict mediation techniques, but fundamental legal and institutional reform that addresses these root causes of injustice.

This research fundamentally demonstrates that the endemic and protracted land tenure conflicts in West Kalimantan are not accidental failures of an otherwise sound system, but are the direct, structural outcomes of a dysfunctional and internally contradictory legal framework. The primary finding is the identification of a state-sanctioned legal pluralism where the constitutional recognition of customary rights is systematically nullified by powerful sectoral legislation, particularly the Forestry Law (Hassan & Abbas, 2024). This law effectively creates a legal mechanism for the state to reclassify ancestral community lands as a “State Forest Zone,” thereby legally extinguishing pre-existing customary claims and paving the way for the issuance of corporate concession permits.

A second critical finding, derived from the analysis of 25 conflict cases, is the profound and uniform failure of procedural justice in the land acquisition process for oil palm concessions. The research revealed a complete absence of meaningful, good-faith consultation, with the principle of Free, Prior, and Informed Consent (FPIC) being systematically ignored (Casarosa, 2024). The so-called “socialization” processes were consistently found to be top-down, non-participatory formalities rather than genuine negotiations, leaving communities disenfranchised and dispossessed without a legitimate avenue to voice their consent or objections.

The case studies further revealed that this dual failure of legal recognition and procedural justice creates a conflict dynamic where communities’ customary claims are rendered legally invisible. The state’s legal apparatus, including law enforcement, was consistently shown to protect the sanctity of the corporate HGU permit while simultaneously criminalizing community members who protested the loss of their lands (Alrasheed et al., 2024). The research thus identifies a clear pattern where the legal framework itself is the primary instrument that generates conflict, legitimizes dispossession, and protects corporate interests over the constitutional rights of its citizens.

In synthesis, the results present a cohesive and damning portrait of a legal architecture that is structurally biased against local and indigenous communities (Faqir, 2023). The entire process, from the initial legal classification of land by the state to the issuance of permits and the handling of subsequent disputes, is predicated on the non-recognition of customary tenure. The findings show that land conflict in West Kalimantan is not an unfortunate byproduct of development, but a predictable consequence of a legal system that is fundamentally unjust.

The findings of this study strongly align with and provide a deep legal-procedural grounding for the extensive body of political ecology and critical agrarian studies literature on state-sponsored dispossession and “land grabbing.” Our analysis provides a clear empirical illustration of the processes theorized by scholars like Tania Murray Li and Nancy Peluso, who argue that state power, exercised through legal and administrative acts like mapping and land classification, is a central mechanism in reallocating resources from local communities to corporate actors (Pedigoni Ponce, 2023). Our research dissects the specific legal instruments the Forestry Law, HGU regulations that function as the tools of this “legalized grabbing.”

This research, however, distinguishes itself from the rich body of anthropological and sociological case studies on land conflict in Indonesia in a crucial way. While those studies provide invaluable, thick descriptions of the social dynamics, resistance strategies, and livelihood impacts of specific conflicts, our study makes the legal framework itself the central object of inquiry (Hoch et al., 2024). It moves the analysis from the symptom (the conflict) to the structural cause (the legal architecture that produces the conflict). By deconstructing the entire legal hierarchy, this research provides a systemic diagnosis that explains why these conflicts are so similar and recurrent across different locations.

Furthermore, this work contrasts with purely doctrinal legal analyses that often focus on the internal consistency of legal texts in isolation. By employing a socio-legal approach that triangulates the “law in books” with the “law in action” (as documented in the 25 conflict cases), this study bridges a critical gap. It demonstrates empirically how the abstract legal

contradictions such as that between the Constitution's recognition of customary rights and the Forestry Law's effective erasure of them translate directly into real-world dispossession, protest, and criminalization. It reveals the profound social consequences of legal ambiguity and incoherence.

Theoretically, our findings contribute to the scholarly discourse on legal pluralism. The situation in West Kalimantan is a classic example of what John Griffiths termed "deep legal pluralism," where multiple, competing legal orders (state and customary) coexist in the same social field. Our research, however, adds to this by showing that this is not a benign coexistence but a deeply conflictual one, where the state actively uses its legal and coercive power to assert the dominance of its own legal order. It demonstrates how legal pluralism, in a post-colonial context, can become a key arena for the contestation of sovereignty and resources.

The results of this study signify that the pervasive land tenure conflicts in West Kalimantan are not failures of policy implementation but rather the successful implementation of a fundamentally flawed and unjust policy. The legal framework is not "broken"; from the perspective of facilitating rapid and inexpensive land acquisition for capital-intensive development, it is working precisely as intended (Ogharanduku et al., 2024). This signifies that these conflicts are the logical and predictable outcomes of a legal-economic model that systematically prioritizes large-scale investment over the pre-existing rights and livelihoods of its rural citizens.

The consistent non-recognition of customary tenure, despite its constitutional protection, reflects a deeper, unresolved political and ideological struggle over the nature of the Indonesian state (Bossu et al., 2024). It signifies a persistent, top-down, and homogenizing vision of development and statehood, a legacy of the New Order era, which is in direct conflict with the country's pluralistic social reality. The legal framework's inability to accommodate customary law is a sign of the state's ongoing difficulty in reconciling its centralizing, developmentalist ambitions with the principles of multiculturalism and indigenous rights.

The profound procedural failures and the routine criminalization of community protestors signify a deep-seated power imbalance and a crisis of the rule of law. When the legal system consistently functions to protect the interests of powerful corporate actors while punishing citizens for defending their ancestral lands, it ceases to be a neutral arbiter of justice (Bossu et al., 2024). This signifies a situation of "rule by law," where the law is used as an instrument of power by the state and capital, rather than a "rule of law" that protects the fundamental rights of all citizens equally. This reflects a significant deficit in democratic governance.

Ultimately, the intractability of these conflicts signifies a state of structural injustice. The problem is not merely a few bad laws or corrupt officials but a legal-political-economic configuration that systematically produces dispossession. As long as this underlying legal architecture remains unchanged, conflicts will continue to erupt, social instability will persist, and the potential for sustainable and equitable development in the region will be severely undermined. The findings are a sign that without legal reform that addresses these root causes, any attempt at conflict resolution is merely treating the symptoms of a deep structural disease.

The most direct and urgent implication of these findings is for the Government of Indonesia and its national legislature. Superficial policy adjustments or the formation of new conflict mediation teams are insufficient. This research implies that fundamental, structural legal reform is imperative. The two most critical and non-negotiable reforms required are: first, a comprehensive amendment of the Forestry Law to remove the legal fiction of the "State Forest Zone" as a barrier to recognizing customary forests, and second, the integration of Free, Prior, and Informed Consent (FPIC) as a mandatory, legally-binding, and independently verifiable prerequisite for the issuance of any HGU or other land-based concession permit.

For the private sector, particularly the palm oil industry and its downstream financiers and buyers, the implications are profound. This study demonstrates that relying on a

government-issued HGU permit as the sole indicator of legality and legitimacy is a deeply flawed and high-risk strategy. It implies that companies must move beyond mere legal compliance to a standard of best practice that includes conducting their own rigorous, independent due diligence on land tenure *before* acquisition. This involves proactively identifying and respecting customary land rights, even when they are not formally recognized by the state, as a core element of operational and reputational risk management.

The research has clear implications for the judiciary and law enforcement agencies. The findings suggest an urgent need for judicial and legal education on the constitutional status of customary law and the rights of indigenous peoples (Tsai et al., 2023). The current tendency to automatically prioritize the formal HGU permit over customary claims in legal disputes and to criminalize community protestors needs to be challenged. This implies that the judiciary has a critical role to play in interpreting existing laws in a manner that upholds the constitutional rights of customary communities and provides a genuine avenue for legal redress.

Finally, for the international community, including consumer countries, financial institutions, and certification bodies like the RSPO, the findings have clear ramifications. They imply that any sustainability or legality standard that accepts state-issued permits at face value without interrogating the underlying land acquisition process is inadequate. It necessitates a strengthening of verification systems to ensure that they can effectively detect and screen out palm oil produced on land with unresolved tenure conflicts, thereby using market-based leverage to drive improvements in land governance on the ground.

The research results are as they are, first and foremost, due to the powerful historical legacy of the colonial and New Order periods, which established a legal tradition of state centralism and control over all land and resources. The post-authoritarian democratic reforms have been incomplete, leaving this foundational, state-centric architecture of the Basic Agrarian Law and the Forestry Law largely intact. The current conflicts are therefore the contemporary manifestation of a long-standing, unresolved historical struggle over who controls Indonesia's land.

The persistence of this unjust legal framework is also a direct result of the powerful political and economic interests that benefit from it. A legal system that makes land acquisition for plantations cheap, fast, and unencumbered by complex community rights negotiations is highly advantageous to a powerful coalition of political elites and corporate actors. This "political-business alliance" has a strong vested interest in maintaining the legal status quo and has historically resisted attempts at meaningful land tenure reform that would challenge their access to land and resources.

The results are also a function of a persistent conceptual and ideological bias within the state bureaucracy. There remains a strong developmentalist ideology that views large-scale, monoculture plantations as the epitome of "modern" and "productive" land use, while viewing community-based, swidden agriculture and customary forest management as "backward" or "inefficient." This ideological preference is reflected in a legal and administrative system that is procedurally streamlined for corporate investment but is deliberately complex and arduous for the formal recognition of community land rights.

Lastly, the on-the-ground procedural failures are a consequence of a profound power asymmetry. Local communities, particularly in remote areas of West Kalimantan, often lack access to legal information, financial resources, and political networks. They are therefore in an extremely weak bargaining position when confronted by a powerful alliance of a corporation and the state apparatus. The flawed "socialization" processes and coercive compensation negotiations are a direct reflection of this imbalance of power, which the legal framework fails to correct and, in fact, exacerbates.

The immediate next step for the policy and advocacy community is to use the clear evidence presented in this research to launch a targeted campaign for specific, high-impact legal reforms. This should move beyond general calls for recognition to advocating for precise

amendments, such as the revision of Article 5 of the Forestry Law and the insertion of mandatory, independently-verified FPIC clauses into the government regulations governing the HGU process. Providing concrete, evidence-based legal drafting proposals is a crucial next step.

For the academic community, a critical avenue for future research is to move from diagnosing the problem to investigating and documenting solutions. This involves conducting research on existing and emerging models of equitable land partnerships between communities and companies, and studying the processes and outcomes of the few successful cases of customary forest recognition. Such research can provide positive, forward-looking examples and identify the critical success factors for creating more just land governance arrangements.

A crucial “now what” involves a concerted effort in legal empowerment at the grassroots level. This implies that civil society organizations, legal aid foundations, and academic institutions should collaborate to provide direct support to communities facing land conflicts. This support should include training in community-based participatory mapping of customary territories, education on their legal rights under both national and international law, and providing legal assistance to challenge flawed permits in court and defend community members against criminalization.

Finally, the private sector must take a more proactive role. The next step is for progressive companies and industry-wide platforms to move beyond the current standards of legal compliance and develop a new “gold standard” for responsible land acquisition. This would involve creating and publicly committing to a transparent and robust operational protocol that fully incorporates FPIC and respect for customary tenure as a non-negotiable part of their business model. Such proactive leadership from within the industry can create a powerful momentum for change that complements the pressure from policy advocacy and grassroots movements.

CONCLUSION

This study’s most significant and distinct finding is that land tenure conflicts in West Kalimantan are not incidental failures of an otherwise sound system, but are the systemic and predictable outcomes of a legal framework that is structurally designed to disenfranchise local communities. The research reveals that the core of these disputes is the state’s active non-recognition of customary land tenure (*tanah ulayat*), a process legitimized by the hierarchical dominance of sectoral laws, particularly the Forestry Law, over the constitutional rights of indigenous peoples. This creates a state of legal pluralism where state law is used as an instrument to legally nullify pre-existing community claims, thereby manufacturing the conditions for conflict.

The principal contribution of this research is methodological, offering a replicable and systematic legal framework analysis that bridges the gap between macro-level policy and micro-level conflict. The value of this study lies in its deconstruction of the complex legal architecture and its direct linkage of specific legal provisions and procedural gaps to the consistent patterns of dispossession and procedural injustice observed in the conflict cases. This analytical method moves beyond merely describing the symptoms of conflict to providing a structural diagnosis of the legal system that produces them.

The research is limited by its focus on analyzing the existing legal framework and documented conflicts, rather than generating new primary field data on community perspectives or potential solutions. Future research should therefore move from a problem-diagnostic to a solution-oriented approach. The most critical direction is to conduct field-based, participatory action research in collaboration with communities, companies, and local governments to co-design, pilot, and evaluate more equitable land partnership and conflict

resolution models. A comparative legal analysis with other jurisdictions facing similar challenges would also yield valuable insights for policy reform.

AUTHOR CONTRIBUTIONS

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

CONFLICTS OF INTEREST

The authors declare no conflict of interest.

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