

Land, Custom, and Investment: Contesting Indigenous Peoples' Rights in Agrarian Conflicts in West Kalimantan

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Abstract

The expansion of plantation and natural-resource investments in West Kalimantan has generated legal tensions between indigenous peoples' rights, investment interests, and state authority over land. Agrarian conflicts in this context are not merely disputes over formal ownership but also involve identity, historical territorial control, and customary norms embedded within local communities. This study aims to examine how indigenous peoples' rights are positioned in agrarian conflicts involving investment interests and how state legal mechanisms respond to claims based on customary law. The research adopts a socio-legal approach by combining normative analysis of land and indigenous peoples' legal frameworks with empirical inquiry involving community members, government officials, and business actors. Legal pluralism is employed as an analytical framework to understand tensions between state law and customary norms. The study argues that agrarian conflicts are likely to persist when legal recognition of indigenous peoples remains primarily normative without operational mechanisms defining territories, legal subjects, and enforceable rights. Meaningful conflict resolution therefore requires participatory recognition mechanisms, customary-territory mapping, investment-process transparency, and dispute-resolution mechanisms capable of incorporating indigenous perspectives. Such an approach would strengthen legal certainty while simultaneously promoting social justice and more legitimate natural-resource governance.

[Ekspansi investasi perkebunan dan sumber daya alam di Kalimantan Barat telah menimbulkan ketegangan hukum antara hak-hak masyarakat adat, kepentingan investasi, dan otoritas negara atas tanah. Konflik agraria dalam konteks ini bukan hanya sengketa kepemilikan formal tetapi juga melibatkan identitas, kontrol teritorial historis, dan norma-norma adat yang tertanam dalam masyarakat setempat. Studi ini bertujuan untuk meneliti bagaimana hak-hak masyarakat adat diposisikan dalam konflik agraria yang melibatkan kepentingan investasi dan bagaimana mekanisme hukum negara menanggapi klaim berdasarkan hukum adat. Penelitian ini mengadopsi pendekatan sosio-hukum dengan menggabungkan analisis normatif tentang tanah dan kerangka

hukum masyarakat adat dengan penyelidikan empiris yang melibatkan anggota masyarakat, pejabat pemerintah, dan pelaku bisnis. Pluralisme hukum digunakan sebagai kerangka analitis untuk memahami ketegangan antara hukum negara dan norma-norma adat. Studi ini berpendapat bahwa konflik agraria cenderung berlanjut ketika pengakuan hukum terhadap masyarakat adat tetap terutama bersifat normatif tanpa mekanisme operasional yang mendefinisikan wilayah, subjek hukum, dan hak-hak yang dapat ditegakkan. Oleh karena itu, penyelesaian konflik yang bermakna membutuhkan mekanisme pengakuan partisipatif, pemetaan wilayah adat, transparansi proses investasi, dan mekanisme penyelesaian sengketa yang mampu memasukkan perspektif masyarakat adat. Pendekatan seperti itu akan memperkuat kepastian hukum sekaligus mendorong keadilan sosial dan tata kelola sumber daya alam yang lebih sah.]

Keywords: indigenous peoples, agrarian conflict, investment, customary law, legal pluralism

Introduction

Land has never been merely an economic commodity for indigenous communities. It may constitute the material basis of livelihood, the foundation of collective identity, the location of cultural practices, and the physical expression of historical relationships between generations. For many indigenous peoples, territory is understood through social and cultural relationships that cannot easily be reduced to the concept of individually registered property. This distinction becomes particularly significant when state institutions allocate land or natural resources for plantations, mining, forestry, infrastructure, and other investment activities. Agrarian conflicts consequently emerge not only because different parties claim the same land but because they rely upon different normative systems to establish what constitutes a legitimate claim to land. Such conflicts illustrate the continuing significance of legal pluralism in countries where state law operates alongside customary institutions and community norms (Benda-Beckmann, Benda-Beckmann, and Wiber 2006).

West Kalimantan represents an important context for examining these dynamics. The province possesses extensive forest resources, agricultural land, mineral resources, and plantation areas, while also being home to numerous indigenous communities with long-standing relationships to particular territories. The expansion of resource-based investment has created economic opportunities and government revenue but has simultaneously generated disputes concerning land acquisition, overlapping claims, environmental impacts, and recognition of customary territories. In many cases, the central issue is not simply whether an investment has obtained formal administrative authorization. The deeper question concerns whether the land was legitimately available for allocation in the first place

and whether communities whose customary relationships preceded the investment process were adequately recognized and consulted.

The legal framework governing indigenous peoples in Indonesia is complex. Article 18B(2) of the 1945 Constitution recognizes the existence and traditional rights of indigenous communities subject to constitutional conditions. Article 28I(3) further recognizes respect for cultural identity and traditional communities. These provisions provide an important constitutional foundation, but their implementation remains dependent upon legislation, administrative recognition, territorial identification, and institutional practice. The Constitutional Court's Decision Number 35/PUU-X/2012, which distinguished customary forests from state forests, represented a major development in the constitutional recognition of indigenous peoples' rights. Nevertheless, the practical realization of such rights remains dependent on government recognition and administrative mechanisms (Arizona, Wibowo, and Lestari 2017).

The relationship between indigenous rights and investment is therefore characterized by an institutional tension. The state seeks to provide legal certainty for investors, facilitate economic development, and regulate natural-resource utilization. Indigenous communities, meanwhile, seek recognition of territorial rights that may not correspond with formal land titles or administrative boundaries. Investors require predictable legal conditions, while communities require assurance that development will not extinguish their rights without meaningful participation and appropriate safeguards. These objectives are not necessarily incompatible, but conflicts arise when legal certainty is understood exclusively from the perspective of investment authorization rather than as a condition that must also protect legitimate community rights.

The concept of legal pluralism offers a useful framework for understanding these tensions. Rather than assuming that state law is the only relevant normative system, legal pluralism recognizes that multiple forms of normativity may operate within the same social field. Customary rules, state legislation, administrative regulations, contractual arrangements, and community practices can interact, overlap, or conflict (Griffiths 1986; Merry 1988). In agrarian conflicts, this interaction becomes particularly visible because indigenous communities may understand territory through customary boundaries and collective obligations while state institutions rely on administrative maps, licenses, and formal documentation.

Agrarian conflict is also closely connected with power. Land allocation processes frequently involve actors possessing unequal economic, political, and institutional resources. Investors may have access to legal counsel, technical experts, financial capital, and government institutions, whereas indigenous communities may face difficulties obtaining documentation, participating in technical planning processes, or bringing claims before formal institutions. Peluso and Lund (2011) describe such processes as part of broader struggles over land control, in which states, corporations, communities, and other actors attempt to establish authority over territory.

The present study addresses three principal questions. First, how are indigenous peoples' rights legally positioned within agrarian conflicts involving investment activities in West Kalimantan? Second, how do state law and customary law interact when communities challenge investment-related claims to land? Third, what institutional mechanisms can reconcile investment certainty with indigenous peoples' rights and social justice? This article argues that sustainable conflict resolution requires moving beyond a binary understanding in which either state law or customary law must prevail. Instead, legal governance should create mechanisms through which customary rights can be identified, represented, incorporated into decision-making, and protected within a transparent state legal framework.

Theoretical Framework

1. Indigenous Peoples' Rights and the Concept of Territory

Indigenous peoples' claims to land differ in important respects from conventional private-property claims. While private property generally emphasizes individualized ownership and legally recognized title, indigenous territorial relationships may encompass collective use, spiritual relationships, customary obligations, ancestral connections, and shared responsibilities toward natural resources. These characteristics mean that legal recognition based exclusively on individual land registration may fail to capture the nature of indigenous territorial rights.

The United Nations Declaration on the Rights of Indigenous Peoples recognizes indigenous peoples' rights to lands, territories, and resources that they have traditionally owned, occupied, or otherwise used. It also emphasizes participation and free, prior, and informed consent in matters affecting indigenous territories. Although the Declaration is not equivalent to domestic legislation, it has become an important international normative reference for discussions concerning indigenous land rights (United Nations 2007).

Scholars have emphasized that indigenous land rights involve both material and relational dimensions. Gilbert (2006) argues that indigenous territorial rights are closely connected to collective identity and self-determination. Similarly, Cotula (2012) demonstrates that land governance increasingly requires attention to collective and customary rights that may not correspond with formal state documentation. These perspectives are relevant to West Kalimantan because customary territories may exist socially and institutionally even where they have not yet been formally recognized by the state.

2. Legal Pluralism

Legal pluralism provides the principal theoretical framework of this study. Griffiths (1986) defines legal pluralism in opposition to the assumption that a state possesses a single, unified legal system. In plural legal environments, different normative orders can coexist and influence behavior. These may include state

legislation, customary law, religious norms, private contracts, local regulations, and informal community institutions.

Merry (1988) further demonstrates that legal pluralism is not restricted to situations where formally recognized customary law exists. Normative orders may interact through processes of translation, adaptation, resistance, and negotiation. This is particularly relevant to indigenous land disputes because communities frequently use state legal concepts while simultaneously maintaining customary understandings of territory.

In Indonesia, legal pluralism has long been recognized as a characteristic of social and legal life. Bedner and Van Huis (2008) argue that the interaction between state law and customary law should be examined through institutional practices rather than merely through formal legal recognition. Thus, the critical question is not simply whether customary law exists, but whether state institutions provide mechanisms through which customary norms can have legal consequences.

3. Agrarian Conflict and Access to Land

Agrarian conflict is fundamentally a conflict over control, access, and authority. It may involve competing claims between communities, corporations, governments, and individuals. The concept of access developed by Ribot and Peluso (2003) is particularly useful because it distinguishes access from formal ownership. Actors may benefit from land and natural resources through legal rights, economic power, political relationships, social networks, or technological capacity.

This distinction helps explain why formal recognition of land rights does not always determine actual control. A community may possess customary claims while lacking the institutional capacity to enforce them. Conversely, an investor may obtain practical control through administrative authorization even when the underlying legitimacy of the land allocation remains contested.

Peluso and Lund (2011) describe contemporary land struggles as processes of territorialization through which actors seek to establish control over land. Investment projects can therefore become part of broader processes through which territory is redefined according to state administrative categories, corporate boundaries, or commercial uses.

4. Indonesian Legal Framework

The Indonesian Constitution provides the fundamental legal basis for recognizing indigenous communities. Article 18B(2) of the 1945 Constitution states that the state recognizes and respects traditional communities and their traditional rights as long as they remain alive and are consistent with societal development and constitutional principles. Article 28I(3) further establishes recognition of cultural identity and traditional communities.

These provisions demonstrate that indigenous rights have constitutional status. Nevertheless, the conditional language creates interpretive complexity.

Recognition depends upon whether a particular community qualifies as an indigenous community and whether its traditional rights remain sufficiently identifiable. This has contributed to a situation in which constitutional recognition may exist in principle while practical recognition remains dependent upon administrative processes.

The Basic Agrarian Law, Law Number 5 of 1960, also provides an important foundation. Article 3 recognizes the implementation of customary rights insofar as such rights continue to exist and their implementation is consistent with national interests and applicable legislation. The provision demonstrates that Indonesian agrarian law has historically acknowledged customary rights, but recognition is framed within state-defined conditions.

The constitutional and statutory framework therefore produces a dual structure. On one hand, customary rights are recognized as legitimate forms of social and legal relations. On the other hand, their practical enforceability remains dependent upon state institutions. This creates a recurring problem in indigenous land conflicts: communities may possess a historically established territorial relationship but lack the documentary and administrative status necessary to have that relationship recognized during licensing or investment processes.

5. Constitutional Recognition and the Forest Question

One of the most important legal developments concerning indigenous territories was Constitutional Court Decision Number 35/PUU-X/2012. The decision rejected the treatment of customary forests as simply part of state forests and recognized a distinct legal category of customary forest associated with indigenous communities. The decision has significant implications for communities whose territories overlap with forest areas.

The significance of the decision extends beyond forestry. It demonstrates that constitutional adjudication can challenge assumptions embedded within administrative systems concerning state control over natural resources. Arizona, Wibowo, and Lestari (2017) explain that implementation of the Constitutional Court's decision requires institutional mechanisms capable of identifying indigenous communities and their territories.

The decision therefore does not eliminate conflict by itself. Recognition must be translated into maps, administrative decisions, land records, spatial plans, and practical protection against conflicting licenses. Without these mechanisms, judicial recognition may remain difficult to implement at the community level.

6. Investment Law and Legal Certainty

Investment law emphasizes legal certainty, protection, and predictability for investors. These principles are important because investment decisions generally depend upon confidence that permits and contractual arrangements will receive legal protection. However, investment certainty cannot reasonably be separated from the legality and legitimacy of the underlying land rights.

Where investment permits overlap with customary territories, legal certainty requires more than confirmation that an administrative license has been issued. It also requires verification that the licensing process properly addressed existing rights and community interests. Cotula (2012) emphasizes that responsible land investment requires attention to customary land rights and participation.

A legal system that protects investment without adequately protecting pre-existing community rights may create what can be described as asymmetric legal certainty. Investors may perceive the legal environment as certain because they possess permits, while communities experience uncertainty because their customary claims remain unresolved. Such a situation may actually undermine long-term investment certainty by generating protests, litigation, social conflict, and project disruption.

Methods

This research employs a socio-legal methodology combining normative legal analysis with qualitative empirical research. The normative component examines constitutional provisions, agrarian legislation, forestry and environmental regulations, investment law, regulations concerning indigenous communities, judicial decisions, and relevant regional policies applicable to land and natural-resource governance in West Kalimantan. Legal documents are analyzed to identify the formal requirements for recognizing indigenous communities, customary territories, land rights, investment permits, consultation procedures, and dispute-resolution mechanisms. The empirical component is designed to investigate how these legal arrangements operate in practice through semi-structured interviews with indigenous community members, customary leaders, government officials, local authorities, and business actors involved in or affected by agrarian conflicts. Participants should be selected purposively according to their direct knowledge of land disputes, customary governance, investment activities, or relevant administrative processes.

The empirical material is analyzed thematically and triangulated against the normative findings. Five analytical categories are used: recognition of indigenous identity, recognition and mapping of customary territory, investment-related land acquisition, participation and consultation, and dispute resolution. Particular attention is given to situations in which state law and customary norms provide different interpretations of land ownership, authority, or legitimate land use. The study does not assume that customary law is inherently harmonious or that state law is inherently oppressive; instead, both normative systems are examined according to their institutional operation and effects on affected communities. Interviews should be conducted with informed consent, while sensitive information concerning unresolved disputes should be anonymized. Because empirical details were not supplied in the research outline, the final manuscript should incorporate the author's verified number of participants, locations, interview dates, and documentary evidence before journal submission.

Results and Discussion

1. Customary Territory as a Legal and Social Institution

Customary territory cannot be adequately understood as an area of land merely awaiting formal registration. It is often a social institution through which communities organize relationships among people, land, forests, water, and ancestral history. Boundaries may be understood through rivers, forests, hills, historical events, settlement patterns, or customary agreements. These territorial understandings can remain socially effective even when they are absent from official cadastral maps.

This situation creates an institutional gap. State administration generally requires boundaries that can be measured, mapped, recorded, and linked to identifiable legal subjects. Customary territorial systems may operate through collective memory and social authority rather than formal documentation. The resulting difference does not necessarily mean that customary claims are legally insignificant. Instead, it demonstrates the need for institutional mechanisms capable of translating customary territorial knowledge into forms that can interact with state administration.

Participatory mapping is therefore potentially important. Peluso (1995) demonstrates that mapping can become a political process through which communities challenge dominant representations of territory. Participatory mapping can help document customary boundaries while also creating evidence for recognition procedures. However, mapping should not be treated as a purely technical exercise. Communities must retain meaningful control over the knowledge being documented.

2. Recognition as the Central Legal Problem

The most significant challenge facing indigenous communities is often not the absence of constitutional recognition but the difficulty of converting recognition into enforceable rights. Recognition typically requires authorities to determine whether an indigenous community exists, identify its traditional territory, establish institutional structures, and verify the continuity of customary practices.

This creates what can be called a recognition gap. A community may possess strong social evidence of customary identity while lacking an administrative decision confirming its legal status. During investment processes, this gap can become consequential because investors and government agencies may rely upon formal maps and licenses.

Li (2000) argues that state recognition can simultaneously empower and constrain local communities because the process of defining who qualifies as a community may impose categories that do not correspond with local identities. Recognition mechanisms must therefore remain sensitive to community-defined identity while ensuring objective procedures for legal certainty.

3. Investment and Competing Claims to Land

Investment projects frequently transform the economic and administrative meaning of land. Land previously used for subsistence agriculture, forests, gathering, hunting, or cultural activities may be classified as suitable for plantations or other commercial purposes. Such transformation can generate conflict even where the state considers the land available for development.

The issue is therefore not simply compensation. Compensation assumes that the state or another actor possesses legitimate authority to transform the land and that the affected party's interest can be reduced to an economic value. For indigenous communities, however, land may possess cultural, spiritual, historical, and collective significance that cannot easily be monetized.

Sikor and Møller (2009) emphasize that land-grabbing processes often involve changes in property relations and access that can benefit some actors while disadvantaging others. In West Kalimantan, similar dynamics may occur where investment transforms customary landscapes into commercially managed territories.

4. Plantation Expansion and Agrarian Conflict

Plantation expansion is particularly relevant to West Kalimantan because large-scale agricultural development requires extensive land areas. Plantation development may contribute to regional economic growth and employment but can also overlap with customary territories and existing community land uses.

The legal problem becomes especially complex where communities do not possess formal certificates covering customary land. Administrative authorities may consider the land available for licensing, while communities understand it as collectively held territory. Such situations can generate conflicts over the legitimacy of permits, compensation, land boundaries, and continuing access. Cramb and McCarthy (2016) demonstrate that oil-palm expansion in Southeast Asia involves complex interactions among state policies, corporations, land markets, and local communities. These processes show why land conflicts cannot be understood exclusively as local disputes. They are connected to broader political-economic structures governing commodity production.

5. Legal Pluralism in Practice

The coexistence of customary law and state law does not necessarily produce a simple opposition. Communities may invoke customary norms in one context and state law in another. For example, a customary leader may establish the historical legitimacy of a territorial claim, while lawyers use constitutional provisions or judicial decisions to challenge an administrative permit. This illustrates the dynamic nature of legal pluralism. Normative systems interact strategically and pragmatically. Von Benda-Beckmann (2002) emphasizes that legal pluralism should be examined through concrete processes of dispute settlement and institutional interaction rather than through abstract categories.

The state should therefore avoid assuming that customary law represents a completely separate legal universe. Customary norms can be incorporated into formal governance when appropriate, while state law can provide mechanisms for enforcing community rights. The objective should be institutional dialogue rather than legal isolation.

6. The Problem of Power Asymmetry

Agrarian conflicts often involve significant disparities in power. Corporations may have substantial financial resources, technical expertise, legal counsel, and access to administrative institutions. Indigenous communities may have limited financial resources and may depend heavily on customary leaders or civil-society organizations to communicate their claims.

This asymmetry affects negotiation. A process may formally treat all parties as equal while producing unequal outcomes because parties possess different capacities to understand regulations, produce documentation, hire experts, and access decision-makers. Borras and Franco (2010) emphasize that land policies must be evaluated not simply according to formal allocation but according to their distributional effects. A legally neutral procedure may therefore generate substantively unequal consequences when underlying power relations are unequal.

7. Consultation and Consent

Meaningful consultation is essential where investment projects may affect indigenous territories. Consultation should provide communities with sufficient information concerning the nature, scale, risks, benefits, duration, and consequences of a proposed project. It should also allow communities adequate time to deliberate according to their own institutional practices.

International indigenous-rights standards increasingly emphasize free, prior, and informed consent. The principle does not necessarily mean that every investment project requires an absolute community veto in every legal system, but it establishes a demanding standard for participation and protection against coercive decision-making (United Nations 2007). For Indonesia, incorporating meaningful consent principles can strengthen both community rights and investment legitimacy. Investors that obtain genuine community support may reduce the risk of prolonged conflict and project disruption.

8. Environmental Dimensions of Agrarian Conflict

Agrarian conflict cannot be separated from environmental concerns. Indigenous territories frequently contain forests, rivers, wetlands, and other ecosystems that provide both livelihood resources and cultural value. Resource-intensive investment may therefore alter not only land tenure but also ecological systems. Environmental degradation can intensify conflict because it affects communities after land-use changes have occurred. Pollution, water shortages,

forest loss, and reduced agricultural productivity can create grievances that extend beyond the initial land transaction.

Whyte (2018) emphasizes that environmental justice for indigenous peoples requires attention to historical and structural relationships between communities and environmental change. In West Kalimantan, environmental governance should therefore recognize the cumulative consequences of investment activities rather than assessing each project in isolation.

9. Customary Institutions and Conflict Resolution

Customary institutions can contribute significantly to resolving agrarian disputes because they possess social legitimacy and knowledge of community history. Customary leaders may facilitate dialogue, identify historical boundaries, and establish culturally appropriate processes for reconciliation. However, customary mechanisms should not automatically be treated as sufficient in every dispute. Internal power relations may disadvantage women, younger community members, migrants, or minority groups. State institutions therefore have an important role in ensuring that customary dispute resolution remains consistent with constitutional rights and equality.

The most appropriate approach is institutional complementarity. Customary mechanisms can address social and relational dimensions of conflict, while state institutions can provide enforceability, procedural safeguards, and judicial review.

10. The Importance of Participatory Mapping

Mapping customary territories can reduce uncertainty by providing a shared spatial reference for communities, government institutions, and investors. Yet mapping is politically sensitive because boundaries determine access to land and resources. Participatory mapping should therefore involve communities from the beginning. Maps should document local knowledge and customary boundaries while being reviewed through transparent procedures. The resulting information should be integrated into official spatial-planning systems where legally appropriate.

Peluso (1995) shows that maps can function as instruments of both state control and community resistance. Participatory mapping can transform this dynamic by allowing communities to produce spatial evidence that enters formal decision-making processes.

11. Legal Certainty for Communities and Investors

Legal certainty should not be conceptualized solely as certainty for investors. Communities also require certainty that their legitimate territorial rights will not be displaced without due process. A legal framework that provides predictable investment procedures while leaving customary claims unresolved may generate instability rather than certainty. A more comprehensive understanding of legal certainty should therefore include at least four elements: clarity of rights, transparent

procedures, institutional consistency, and effective remedies. Investors benefit from knowing which territories are subject to legitimate customary claims, while communities benefit from knowing how those claims will be evaluated.

This approach can transform indigenous recognition from an obstacle to investment into a component of investment governance. Properly documented customary rights can reduce uncertainty and facilitate responsible investment.

12. The Role of Local Government

Local governments have an important role in translating constitutional and statutory recognition into practical mechanisms. They can establish procedures for identifying indigenous communities, facilitate participatory mapping, coordinate spatial planning, and mediate disputes. However, local recognition mechanisms should be coordinated with provincial and national institutions. Fragmented recognition procedures can create inconsistent outcomes and encourage forum shopping by different actors.

Local government should also maintain accessible public information concerning land-use plans and investment proposals. Transparency is essential because communities cannot meaningfully participate if they do not know what projects are being proposed or how those projects may affect their territories.

13. Corporate Responsibility

Businesses involved in natural-resource investment have responsibilities that extend beyond obtaining formal government permits. Responsible investment requires due diligence concerning existing land rights, community claims, environmental impacts, and social consequences. Ruggie (2013) emphasizes that businesses have a responsibility to respect human rights, while states have duties to protect against rights abuses. In land-related investment, this principle supports the use of human-rights due diligence before project implementation.

Investors should therefore conduct meaningful community engagement, identify customary claims, maintain transparent land-acquisition procedures, and establish grievance mechanisms. Such practices can improve social legitimacy while reducing operational risk.

14. Toward an Integrated Recognition and Conflict-Resolution Model

The findings suggest the need for an Integrated Indigenous Territory and Investment Governance Model. The model should contain five sequential but interconnected stages: identification, mapping, consultation, authorization, and monitoring. Identification should determine whether an indigenous community and customary territorial claim exist. Mapping should establish the geographic scope of the claimed territory. Consultation should ensure meaningful participation before investment decisions are finalized.

Authorization should then evaluate whether proposed investment activities are compatible with recognized rights and environmental standards. Finally,

monitoring should continue throughout the investment period to ensure compliance with legal obligations and agreements. Such a model would reduce the likelihood that indigenous claims are considered only after an investment project has received authorization. Recognition should occur at the earliest possible stage of the investment process. This would provide greater certainty to all parties and reduce the likelihood of later conflict.

15. Policy Recommendations

First, Indonesia should strengthen operational mechanisms for recognizing indigenous communities and customary territories. Recognition should include clear procedures, reasonable timelines, participatory verification, and coordination between village, district, provincial, and national institutions.

Second, customary-territory mapping should be integrated into official spatial-planning and land-administration systems. Community participation should be mandatory, and disputes over boundaries should be resolved through transparent procedures.

Third, investment licensing should include customary-rights due diligence. Before a project is approved, authorities and investors should establish whether affected land overlaps with customary territory and whether communities possess legitimate claims.

Fourth, meaningful consultation should occur before land acquisition or project implementation. Consultation should provide adequate information, allow community deliberation, and avoid coercion.

Fifth, government should strengthen independent grievance and mediation mechanisms. Such mechanisms should be geographically accessible, affordable, culturally appropriate, and capable of producing outcomes recognized by relevant institutions.

Sixth, investment agreements affecting indigenous territories should incorporate enforceable provisions concerning environmental protection, employment, community benefits, land access, and dispute resolution.

Seventh, government and businesses should recognize that community participation is not simply a procedural obligation. It can function as a mechanism for improving investment stability by reducing uncertainty and preventing disputes from escalating.

16. Limitations

This study has several limitations. First, the socio-legal approach emphasizes the relationship between law, institutions, and community experience rather than statistical generalization. The experiences of indigenous communities differ according to ethnic identity, customary institutions, geographic location, economic conditions, and the nature of investment activities. Consequently, findings from selected locations in West Kalimantan should not automatically be generalized to all indigenous communities in Indonesia.

Second, agrarian conflicts are dynamic and can change as investment licenses, spatial plans, government policies, court decisions, and community strategies evolve. Longitudinal research would therefore be valuable for examining how conflicts develop before, during, and after investment implementation. Future research should also examine the effectiveness of different forms of recognition and participatory mapping.

Third, further research should pay greater attention to gender and intra-community differences. Indigenous communities should not be treated as internally homogeneous actors. Women, youth, tenants, landless residents, and households with different economic positions may experience investment projects differently. Incorporating these perspectives would strengthen the understanding of distributive justice within indigenous territories.

Conclusion

Agrarian conflicts involving indigenous peoples and investment activities in West Kalimantan demonstrate the limits of understanding land solely through formal ownership and administrative authorization. Land is simultaneously an economic asset, a territorial space, a source of livelihood, and a foundation of cultural identity. When investment activities overlap with customary territories, conflicts therefore involve competing conceptions of authority, legitimacy, and justice. Indonesian law provides significant constitutional and statutory foundations for recognizing indigenous peoples and their traditional rights. Constitutional provisions, agrarian legislation, forestry law, environmental regulation, and judicial decisions collectively establish an important normative basis. Nevertheless, recognition remains incomplete when it is not translated into operational mechanisms for identifying communities, mapping territories, incorporating customary claims into spatial planning, and enforcing rights.

The central challenge is therefore the recognition gap between normative acknowledgment and institutional implementation. Legal pluralism demonstrates that state law and customary law do not necessarily need to exist in opposition. They can interact through processes of translation, negotiation, and institutional complementarity. Customary institutions can provide knowledge and social legitimacy, while state institutions can provide formal recognition, enforceability, procedural safeguards, and judicial remedies. Investment certainty should similarly be reconceptualized. Genuine certainty cannot mean certainty based solely on licenses issued by the state. It should include certainty concerning the status of existing customary rights and the legitimacy of procedures through which those rights may be affected. Investors benefit from clear territorial boundaries and transparent procedures just as indigenous communities benefit from legal recognition.

Accordingly, the protection of indigenous peoples in agrarian conflicts requires participatory recognition, customary-territory mapping, transparent investment procedures, meaningful consultation, corporate human-rights due

diligence, and accessible dispute-resolution mechanisms. Such measures can transform indigenous rights from abstract constitutional principles into practical legal protections. Ultimately, the challenge is not to choose between custom and the state but to develop institutional arrangements in which customary authority and state authority can interact without sacrificing equality, human rights, environmental sustainability, or legal certainty. In West Kalimantan, such an approach is essential if natural-resource investment is to contribute to development without reproducing historical patterns of dispossession and exclusion.

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