

This article is published in Open Access and distributed under the terms of the Creative Commons Attribution-NoDerivatives 4.0 International licence (CC BY-ND 4.0): <https://creativecommons.org/licenses/by-nd/4.0/>

p-ISSN 1733-1218; e-ISSN 2719-826X

<https://doi.org/10.21697/seb.5905>

Research Article

Reconstructing Land Dispute Resolution in Indonesia: Restorative Justice, Customary Tenure, and *Keadilan Bermartabat*

Przebudowa systemu rozstrzygania sporów o grunty w Indonezji: sprawiedliwość naprawcza, zwyczajowe prawa do ziemi i *Keadilan Bermartabat*

Teguh Prasetyo*, Udin Silalahi, Vincensia Esti Purnama Sari, Jerry Shalmont

Universitas Pelita Harapan, Tangerang, Indonesia

ORCID: TP <https://orcid.org/0000-0002-2676-8451>; US <https://orcid.org/0000-0002-5632-4069>;

VEPS <https://orcid.org/0009-0007-1713-8195>; JS <https://orcid.org/0009-0003-0176-7529>; corresponding author: teguh.prasetyo@uph.edu

Received: 2026-04-21; Revised: 2026-08-27; Accepted: 2026-09-04; Published Online First: 2026-09-09

Abstract

Indonesia's land dispute resolution and environmental governance systems remain fragmented across criminal, civil, administrative, and state-financial legal regimes, limiting their capacity to address agrarian and environmental conflicts involving customary tenure, institutional asymmetry, and state loss recovery. This article develops a normative framework for reconstructing land dispute resolution through *Keadilan Bermartabat* (Dignified Justice), a Pancasila-based theory requiring the simultaneous realization of justice, utility, and legal certainty. Using normative legal research combined with socio-legal analysis, the study examines three North Sumatran agrarian conflicts in relation to Indonesia's Criminal Code, Criminal Procedure Code, land regulations, and Government Regulation No. 48 of 2025. The analysis identifies four interconnected structural deficiencies: the absence of procedures adapted to institutionally complex land disputes; fragmentation among criminal, civil, administrative, and state-financial regimes; inadequate calibration of restorative justice to power asymmetries, institutional capture, and case scale; and insufficient recognition of customary land stewardship within abandoned-land regulation. To address these deficiencies, the article proposes a tiered restorative justice framework, an interagency coordination mechanism supported by shared case information, procedural safeguards for institutional-scale cases, and formal recognition of customary stewardship as a legitimate form of productive land use. It argues that land rights should be understood not only as transferable property interests but also as social, cultural, and ecological relationships grounded in human dignity, livelihood security, communal responsibility, and intergenerational stewardship.

The proposed framework advances environmental justice and ecological stewardship while aligning legal certainty with substantive justice and institutional effectiveness in Indonesian land governance.

Keywords

Keadilan Bermartabat (Dignified Justice), land dispute resolution, agrarian conflict, restorative justice, customary land tenure, Indigenous land rights, legal pluralism, environmental justice, ecological stewardship, land governance, SDG 16 – Peace, Justice and Strong Institutions

Streszczenie

Indonezyjski system rozstrzygania sporów dotyczących gruntów oraz system zarządzania środowiskowego pozostają rozproszone między reżimami prawa karnego, cywilnego, administracyjnego oraz prawa finansów publicznych, co ogranicza ich zdolność do rozwiązywania konfliktów agrarnych i środowiskowych związanych z prawami zwyczajowymi, asymetrami instytucjonalnymi oraz odzyskiwaniem strat poniesionych przez państwo. W niniejszym artykule opracowano normatywne ramy przebudowy systemu rozstrzygania sporów gruntowych w oparciu o koncepcję *Keadilan Bermartabat* (Sprawiedliwości Godnościowej) – teorii wywodzącej się z zasad *Pancasila*, która wymaga jednoczesnej realizacji sprawiedliwości, użyteczności i pewności prawa. W badaniu zastosowano normatywną metodę badań prawnych w połączeniu z analizą społeczno-prawną i przeanalizowano trzy konflikty agrarne na Sumatrze Północnej w odniesieniu do indonezyjskiego kodeksu karnego, kodeksu postępowania karnego, przepisów dotyczących gruntów oraz rozporządzenia rządowego nr 48 z 2025 r. Analiza wskazuje na cztery wzajemnie powiązane braki strukturalne: brak procedur dostosowanych do złożonych pod względem instytucjonalnym sporów dotyczących gruntów; fragmentację regulacji prawnych między reżimami prawa karnego, cywilnego, administracyjnego oraz prawa finansów publicznych; niewłaściwe dostosowanie mechanizmów sprawiedliwości naprawczej do istniejących asymetrii władzy, zjawiska przejmowania instytucji przez grupy interesu oraz skali spraw; a także niedostateczne uwzględnienie zwyczajowego gospodarowania gruntami w przepisach dotyczących gruntów porzuconych. W celu wyeliminowania tych braków w artykule zaproponowano model sprawiedliwości naprawczej, mechanizm koordynacji międzyinstytucjonalnej wspierany wymianą informacji o sprawach, gwarancje proceduralne dla spraw o skali instytucjonalnej oraz formalne uznanie zwyczajowego gospodarowania gruntami za uznaną prawnie formę produktywnego użytkowania ziemi. Autorzy argumentują, że prawa do gruntów należy rozumieć nie tylko jako zbywalne uprawnienia własnościowe, lecz także jako relacje społeczne, kulturowe i środowiskowe, zakorzenione w godności ludzkiej, bezpieczeństwie bytowym, odpowiedzialności wspólnotowej oraz międzypokoleniowej trosce o ziemię. Proponowane ramy wspierają sprawiedliwość środowiskową i ekologiczne zarządzanie ziemią, łącząc pewność prawa ze sprawiedliwością materialną i skutecznością instytucjonalną w indonezyjskim systemie zarządzania gruntami.

Słowa kluczowe

Keadilan Bermartabat (Sprawiedliwość Godnościowa), rozstrzyganie sporów dotyczących gruntów, konflikty agrarne, sprawiedliwość naprawcza, zwyczajowe prawa do ziemi, prawa ludności rdzennej do ziemi, pluralizm prawny, sprawiedliwość środowiskowa, ekologiczne zarządzanie ziemią, zarządzanie gruntami, Cel Zrównoważonego Rozwoju 16 – Pokój, sprawiedliwość i silne instytucje

1. Introduction

Indonesia's agrarian crisis remains severe. In 2024, land conflicts reached 295 cases, impacting over 5.16 million hectares and displacing approximately 868,500 people—disproportionately affecting subsistence farmers, indigenous communities, and the urban poor (Konsorsium Pembaruan Agraria 2024). These patterns of dispossession do not merely deprive individuals of property; they sever the social and livelihood relationships that structure communal existence. Where legal certainty is contested, fragmented across regulatory regimes, or withheld from customary institutions, the capacity of displaced communities to maintain tenurial security and intergenerational stewardship weakens for both original inhabitants and successor titleholders alike (Ribot and Peluso 2003; Sikor and Lund 2009).

This breakdown is evident in North Sumatra, where the erosion of customary institutions has undermined traditional frameworks—such as *adat*-governed protected zones (*lubuk larangan*) regulating forest and river use—that historically bound land rights to communal obligations of care and stewardship (Ginting 2003). Ultimately, a community's ability to treat land as a stewarded resource rather than a fungible commodity requires a legal system that recognizes that relationship as constitutive of human dignity. This article examines this premise by evaluating Indonesia's land dispute resolution architecture, reserving fuller empirical analysis of environmental management pathways for future work.

This structural fragmentation is equally evident in state loss recovery mechanisms (Fitria et al. 2025). Courts frequently fail to serve as effective safeguards against land grabbing because legal formalism systematically disadvantages rural communities whose claims rest on customary occupation rather than registered title (Berenschot et al. 2025). State financial law exacerbates this disadvantage: Constitutional Court Decision No. 25/PUU/XIV/2016 requires proof of actual, calculable financial loss to establish state financial damage. In land-asset corruption cases, this standard typically captures only immediate transactional losses while ignoring the productive and livelihood significance embedded in contested land—a value that persists even when it cannot be easily monetized (Jiwanti and Ervita 2025).

A similar failure affects the realm of legal pluralism, where Indonesian land law remains deeply disconnected from the customary tenure systems that structure community land rights. This disconnect has been documented extensively in the literature on land disputes (Fitzpatrick 1997), particularly regarding West Sumatra's Minangkabau-influenced customary institutions and plural property regimes (von Benda-Beckmann 2014). Beyond Indonesia, theoretical work on property and authority demonstrates how formal

legal recognition and practical access to land regularly diverge across plural systems (Ribot and Peluso 2003; Sikor and Lund 2009). This structural gap is exemplified in the Sport Center dispute, where claims grounded in a colonial-era *Grant Sultan* document directly compete with state-issued permits. Indigenous rights scholarship demonstrates that this tension is not incidental but structurally produced (van der Muur 2018; Fahmi 2024), stemming from state law's detachment from the *Volksgeist*—the customary and cultural values that shape Indonesian understandings of social relationships and land obligations (Prasetyo 2015).

Recent legislative developments present new opportunities. The National Criminal Code (KUHP, Law No. 1 of 2023), the new Criminal Procedure Code (KUHP, Law No. 20 of 2025), and Government Regulation No. 48 of 2025 on abandoned land enforcement collectively establish a substantially enhanced regulatory framework. Article 502 of the KUHP provides systematic protection against fraudulent land transactions by imposing mandatory disclosure requirements (Hiariej and Santoso 2025). Articles 79–88 of the KUHP formally codify Restorative Justice, granting it legally binding status and imposing a mandatory seven-day implementation deadline (Sinaga, Prasetyo, and Kameo 2023). However, none of these instruments explicitly addresses institutional capture or actor asymmetry, conditions under which restorative mechanisms designed for individual disputes become inadequate for cases involving state or corporate actors who can control the information environment.

Previous studies have addressed these issues in relative isolation. Research on Indonesian land conflicts has documented patterns of dispossession, rightlessness, and institutional failure (Berenschot and Dhiaulhaq 2023; Berenschot et al. 2025). Analyses of state loss recovery mechanisms have focused on good governance (Fitria et al. 2025). Comparative property theory has explored the gap between formal rights and practical access in plural legal contexts (Ribot and Peluso 2003; Sikor and Lund 2009), while Indonesian land law scholarship has examined the specific dynamics of dispute and pluralism within the national system (Fitzpatrick 1997). However, there remains a lack of an integrated framework that synthesizes state-loss doctrine, restorative justice design, and customary tenure recognition within a unifying philosophical standard grounded in Indonesia's legal tradition.

This article addresses that gap through *Keadilan Bermartabat*—Dignified Justice—as elaborated by Prasetyo (2015) and developed specifically in the context of restorative justice under the new KUHP by Sinaga, Prasetyo, and Kameo (2023). Rooted in Pancasila as Indonesia's foundational *Volksgeist*, the theory demands that law *memanusiakan manusia*—humanize the human being—by simultaneously realizing justice,

utility, and legal certainty. Because Sinaga, Prasetyo, and Kameo's (2023) foundational application of the theory was itself developed against the backdrop of restorative justice for land-related offenses under the new Criminal Code, *Keadilan Bermartabat* offers a standard already calibrated to this article's empirical domain, rather than one imported from an unrelated field.

The connection between tenurial justice and human dignity is intrinsic to *Keadilan Bermartabat*, forming a foundational aspect of the theory with direct significance for bioethical and humanistic inquiry. Its grounding in *Volksgeist*, the customary and cultural value systems informing Pancasila, positions land as more than an object of human entitlement. In both Minangkabau and Batak customary cosmologies, land entails obligations between the community and the land itself, rather than solely between disputing parties (von Benda-Beckmann 2014; Ginting 2003). A legal system that recognizes only registered title and transactional loss—the cash-loss paradigm critiqued throughout this article—is not only procedurally incomplete but also fails to acknowledge the relationship between people and land that Indonesia's customary tradition regards as constitutive of dignity. Reconstructing land dispute resolution around *Keadilan Bermartabat*'s trinity thus entails a reconfiguration of how formal law recognizes the human–nature relationship that customary tenure seeks to maintain. In this respect, the article demonstrates that agrarian justice is not merely a technical legal problem but an ethical question concerning the conditions under which human dignity and communal stewardship can be realized through law.

From an ecological and bioethical perspective, this argument concerns the conditions under which communities can sustain life-supporting relationships with land. Secure and socially legitimate land tenure supports not only economic livelihood but also the continuity of local knowledge, collective responsibility for shared resources, and the capacity to protect land and water for future generations. Conversely, land-dispute procedures that reduce land to a transferable asset or an administratively inactive object may weaken these relationships and expose communities to forms of environmental and social vulnerability. The proposed reconstruction of dispute resolution is therefore directed not only at more effective legal remedies, but also at protecting the human and ecological conditions of responsible land stewardship.

Two research questions guide the analysis:

RQ1. How do existing legal instruments—KUHP Article 502, KUHP Articles 79–88, and PP 48/2025—fail to adequately resolve land disputes when evaluated against *Keadilan Bermartabat*'s demand that law *memanusiakan manusia*?

RQ2. How can Indonesia reconstruct its land dispute resolution and state loss recovery mechanisms by integrating these instruments with a tiered restorative justice model calibrated to institutional capture and scale, and with formal recognition of customary land tenure institutions?

North Sumatran cases serve as the empirical foundation for this analysis. The region exhibits a high intensity of agrarian conflict (ranking fifth nationally), active customary land tenure institutions, and recent high-profile enforcement actions, collectively representing a microcosm of the national issue (Konsorsium Pembaruan Agraria 2024).

2. Theoretical Framework

2.1. Keadilan Bermartabat: Standard, Application, and Limits

Keadilan Bermartabat, or Dignified Justice, is a legal theory based on Indonesia's *Volksgeist*, with Pancasila as its foundation (Prasetyo 2015). The theory holds that law should humanize people by meeting three elements at once: justice, utility (*kemanfaatan*), and legal certainty (*kepastian hukum*). These three form a trinity, and none should be sacrificed to satisfy the others (Prasetyo 2015; Sinaga, Prasetyo, and Kameo 2023). What sets this theory apart is that it rejects the idea that certainty and substantive justice must be traded off, which is common in legal-positivist traditions. For instance, a registered title provides legal certainty because it blocks questions about how it was acquired. But *Keadilan Bermartabat* requires that a resolution meet all three elements. If a decision is certain but unjust, or just but cannot be enforced, it does not meet the standard.

This trinity is put into practice as a three-part test, which will be used for each case in Section 4.

1. Justice: Does the resolution recognize substantive claims to land, such as historical occupation, customary tenure, or documented transfer, based on their merits instead of just favoring the party with the newest or most complete documentation?
2. Utility: Does the resolution offer a practical and fair outcome within a reasonable time, so that it does not cause further harm? This idea follows the principle that *justice delayed is justice denied*, and is supported by KUHAP's rule that restorative justice agreements must be carried out within seven days (Sinaga, Prasetyo, and Kameo 2023).

3. Legal certainty: Does the resolution create binding obligations, with enforcement mechanisms strong enough to address power imbalances between the parties, instead of ending up with an agreement that one side can ignore?

If a resolution meets only one or two of these elements, it is considered incomplete under this standard. In Section 4, this approach will show which element is missing from each case's current legal treatment.

The relevance of this theory to the article's empirical domain is grounded in its own development. Sinaga, Prasetyo, and Kameo's (2023) foundational work on *Keadilan Bermartabat* and restorative justice focused specifically on land-related criminal cases under the new KUHP. Using the theory here therefore continues existing research rather than importing concepts from an unrelated field.

Two tensions deserve explicit attention. First, the theory's foundation in a singular Indonesian *Volksgeist* is in tension with the documented plurality of customary legal orders across the archipelago. For example, Minangkabau *adat* may coexist and sometimes conflict with Islamic law and state law within a single property regime (von Benda-Beckmann 2014), raising questions about which customary norms the theory's *Volksgeist* represents when disagreements arise. This article does not resolve that tension; instead, it treats *Keadilan Bermartabat*'s trinity as an evaluative standard applied by the analyst, rather than as a claim that any single customary order represents the Indonesian *Volksgeist* as a whole. Second, the theory's primary doctrinal opponent in the empirical material is not a competing philosophical school, but rather the prevailing legal practice of formalist reliance on registered title (*sertifikat*) as dispositive. This practice produces certainty-without-justice outcomes that the three-part test is designed to address. In this context, *Keadilan Bermartabat*'s value lies in providing courts and mediators with an explicit basis for treating certainty as necessary but not sufficient.

2.2. Institutional and Customary Architecture

Two additional conditions are required for the trinity to function as more than an ideal. First, an institutional pathway must exist. Currently, state loss recovery, criminal enforcement, and civil remedies operate as separate systems without mechanisms for coordination. This lack of integration allows a single act of dispossession to satisfy the limited objectives of one system, such as achieving a criminal conviction or revoking an administrative permit, while leaving the primary harm to land rights unresolved (Fitria et al. 2025). Second, customary legitimacy is essential. Formal land law frequently remains disconnected from

customary tenure systems. This disconnection has been documented in studies of Indonesian land disputes (Fitzpatrick 1997) and, specifically with regard to Minangkabau-influenced customary institutions relevant to North Sumatran cases, in decades of legal-anthropological research on plural property systems and customary dispute resolution (von Benda-Beckmann 1984). As a result, even a well-designed institutional pathway may fail to achieve the “justice” component of the trinity for communities that do not perceive it as legitimate. The broader literature on property and access demonstrates that this issue extends beyond Indonesia. In many contexts, formal rights and the actual ability to benefit from land frequently diverge across different legal systems (Sikor and Lund 2009; Ribot and Peluso 2003). Section 4 examines this gap in each case.

2.3. Theoretical Synthesis

These two conditions are not independent add-ons to *Keadilan Bermartabat* but consequences of taking its trinity seriously. A cash-loss paradigm that undercounts the productive and livelihood value of land violates the justice element by treating substantive harm as legally invisible. Fragmentation across regimes violates the utility element by allowing resolution in one forum while harm continues unaddressed in others. The absence of a coordinating institutional mechanism and the absence of customary recognition both undermine legal certainty—the former because outcomes remain contestable across regimes, the latter because outcomes unrecognized by the communities they govern do not, in practice, bind. Read this way, the article’s four structural findings in Section 4 are not four separate problems but four failure modes of a single trinity, diagnosed through one consistent test.

This same *Volksgeist* foundation carries a further implication beyond the trinity’s application to human claimants. The customary institutions this article treats as sources of tenurial legitimacy also encode obligations of stewardship that define the community’s social identity and dignity: North Sumatran *adat* governance includes protected river and forest zones such as *lubuk larangan*, in which land-tenure authority and communal obligation are exercised as a single, undivided function rather than as separate legal categories (Ginting 2003). PP 48/2025’s abandoned-land standard, unable to distinguish customary stewardship from genuine idleness (Section 4.4), therefore fails not only to recognize a tenure claim—it fails to recognize a form of social ordering through which communities realize dignity and maintain intergenerational continuity. A full analysis of customary resource management falls outside this article’s doctrinal focus, but the failure itself belongs to the same diagnostic framework used throughout: a resolution that restores title without restoring

recognition of the stewardship obligation bound to that tenure is certain without being just.

3. Methodology

3.1. Research Specification and Approach

This study uses normative legal research (*penelitian hukum normatif*) combined with socio-legal analysis (Nasution 2011; Creswell 2007). The normative part assesses how well current legal instruments meet the three-part test set out in Section 2.1. The socio-legal part places these instruments in the context of agrarian conflicts, using data from the annual reports of Konsorsium Pembaruan Agraria (KPA) and publicly available reporting on relevant disputes and enforcement actions.

The analysis proceeds in three stages, applied consistently across each thematic subsection in Section 4. First, it presents findings directly from case materials such as court filings, KPA data, and enforcement reports, without adding interpretation. Second, these findings are compared with the main legal sources listed in Section 3.2 to identify which of Keadilan Bermartabat's three values — justice, utility, or legal certainty — the current law fails to satisfy. Third, the study offers clear normative recommendations as *de lege ferenda* proposals. This structure is meant to make clear to readers what the case materials show, what the law currently requires, and what the authors propose for future law. The analysis also identifies the regimes relevant to land dispute resolution — substantive criminal, procedural criminal, civil, and administrative law — and maps each of the three North Sumatran cases against every applicable regime, rather than assigning each case to a single body of law. This cross-regime mapping is what reveals the fragmentation problem examined in Section 4.2: several instruments apply simultaneously to each case, and no single one resolves it in full.

This study is subject to several limitations that define the scope of its findings. The empirical base consists of three cases, all located in North Sumatra, examined through publicly available reporting and published legal materials, rather than direct case files, interviews, or courtroom observation. As a result, the analysis is doctrinal and pattern-based, rather than fieldwork-based. North Sumatra was chosen because of its high level of conflict and the availability of recent, well-documented enforcement actions. However, this means the findings should be seen as illustrations of a pattern also found in national KPA data, not as conclusions that apply to all of Indonesia. Readers should consider the proposals in Section 4 as responses to this specific evidence, not as a comprehensive survey of land dispute resolution across Indonesia.

3.2. Legal Materials

Legal materials are organized by regime to ensure clear separation between substantive and procedural, as well as criminal and civil, sources (Soekanto and Mamudji 2015).

Foundational agrarian law: UU No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (UUPA) serves as the principal legislation governing land rights in Indonesia. All subsequent laws listed here are derived from this statute.

Substantive criminal law: KUHP (Law No. 1 of 2023), Article 502, addresses fraudulent land transactions.

Procedural criminal law: KUHAP (Law No. 20 of 2025), Articles 79–88, regulates the Restorative Justice mechanism.

Civil and administrative law: Peraturan Menteri ATR/Kepala BPN No. 21 Tahun 2020 serves as the principal reference for handling and settling land cases, including mediation mechanisms. Peraturan Menteri ATR/Kepala BPN No. 15 Tahun 2024 regulates the identification and assessment of land cases at the prevention stage. Peraturan Mahkamah Agung No. 1 Tahun 2016 establishes mandatory mediation procedures. PP No. 18 Tahun 2021 governs Hak Pengelolaan, Hak atas Tanah, Rumah Susun, and land registration, and is directly relevant to the HGU-to-HGB conversion process in the PTPN I case. PP No. 48 Tahun 2025 addresses enforcement concerning abandoned land.

Constitutional and doctrinal materials: The 1945 Constitution and Constitutional Court Decision No. 25/PUU/XIV/2016 establish the standard for recognizing state financial loss.

Secondary materials, including academic scholarship that critiques and develops these primary texts, are cited throughout Section 4 as analytical tools rather than listed separately in this section.

3.3. Analytical Approaches

Four approaches are applied in combination. The statutory approach examines the text and structure of the materials listed in Section 3.2 to identify gaps in the recognition of land value, restorative justice calibration, and abandoned land enforcement. The conceptual approach applies the theoretical framework developed in Section 2 as the primary mechanism for deriving normative recommendations. The comparative approach draws on land restitution and dispute resolution frameworks in foreign jurisdictions, not to transplant solutions but to identify governance principles consistent with *Keadilan Bermartabat*'s trinity. The customary

law approach examines Indonesian land tenure pluralism and dispute resolution institutions documented by Fitzpatrick (1997) and von Benda-Beckmann (1984), applying their analysis of customary property and dispute resolution regimes to identify principles suitable for formal legal incorporation.

3.4. Case Selection

Three North Sumatran cases provide the empirical basis for the normative analysis. The region was selected because it combines a high intensity of agrarian conflict (fifth nationally), active customary land tenure institutions, recent institutional enforcement action, and documented RJ programs — conditions that together create a representative microcosm of the national problem (Konsorsium Pembaruan Agraria 2024).

The PTPN I land asset corruption case (8,077 hectares; Said 2025) illustrates the cash-loss paradigm's failure to capture the productive and livelihood value of contested land, corresponding to Tier 3 of the RJ framework: large scale combined with the alleged capture of the very agency responsible for verifying land status. The Sport Center construction dispute (Perkara 100/Pdt.G/2024/PN Lbp, 679 hectares) illustrates the cascading consequences of unresolved historical land tenure injustice, corresponding to Tier 2: a private or corporate opposing party whose claim is contestable on evidentiary grounds. The Sari Rejo community dispute (260 hectares) also corresponds to Tier 2: although its scale is smaller, the opposing party is a state institution controlling enforcement capacity — the same structural condition, not scale, that triggers Tier 2's requirement for independent evidentiary review and safeguards against unequal bargaining power. Together, the three cases illustrate a framework calibrated primarily to institutional capture, with scale governing the intensity of the required safeguards within each tier and represent the range of agrarian land conflicts documented in the national data.

4. Results and Discussion

Analysis of the three North Sumatran cases against the regulatory architecture identified in Section 3.2 reveals four causally connected structural gaps. Each subsection below follows the design stated in Section 3.1: an empirical finding stated on its own terms, an interpretation applying the three-part trinity test from Section 2.1, and — only after both are established — a normative proposal explicitly marked as *de lege ferenda*.

4.1. Land Value and the Cash-Loss Paradigm

Finding. The PTPN I investigation concerns the alleged conversion of 8,077 hectares of HGU land held by PTPN I Regional I into HGB status for PT Nusa Dua Propertindo, through a joint operation with PT Ciputra Land. Kejati Sumut alleges that PT NDP failed to surrender approximately 1,615 hectares (20%) to the state under spatial-planning revision requirements. Three officials—ASK and ARL of BPN Sumut and Deli Serdang, and IS as PT NDP's director—have been named as suspects under Indonesia's anti-corruption legislation in conjunction with Article 55(1) KUHP. As of the most recent public reporting, the case remains at the investigation stage, with 63 witnesses examined; no indictment, verdict, or asset-recovery order has been issued (Said 2025).

Interpretation. Applying the trinity test, the legal certainty element cannot yet be assessed because no *petitum*, *putusan*, or execution exists to evaluate—a fact that is itself analytically significant. KUHAP's restorative justice mechanism was designed with a seven-day implementation deadline calibrated to individual-scale disputes (Sinaga, Prasetyo, and Kameo 2023); it supplies no temporal framework for institutional corruption investigations of this scale, which by their nature require extended evidence gathering before any resolution becomes possible. This is a utility failure distinct from the fragmentation problem addressed in Section 4.2: even a well-coordinated regime produces no timely remedy if no mechanism accounts for the investigative timeline that institutional cases require.

Proposal (*de lege ferenda*). KUHAP should be amended to include a distinct procedural track for land corruption investigations involving suspected institutional collusion, featuring mandatory interim asset-preservation measures (such as administrative holds on converted parcels from the opening of an investigation), periodic reporting to affected communities, and a graduated restorative justice timeline commencing only after indictment—preserving the seven-day implementation window for post-indictment settlement while preventing the pre-indictment period from functioning as a legal vacuum.

Table 1. State Loss Claims in the PTPN I Case: Current Status and Procedural Gap

This table addresses the legal-procedural challenges and enforcement bottlenecks in prosecuting the PTPN I case. To read the table, evaluate each procedural dimension across the row to see where the current prosecution status stalls, identifying the statutory gap that leads to the proposed institutional-track reform.

Dimension	Current Status	Procedural Gap
Alleged loss scope	~1,615 ha (20% surrender obligation), not full 8,077 ha	Public reporting has sometimes conflated case-specific loss with national annual recovery totals; scope requires precise, case-specific quantification

Dimension	Current Status	Procedural Gap
Case stage	Investigation (<i>penyidikan</i>); suspects named, no indictment	No statutory timeline governs this stage for institutional corruption cases
RJ applicability	None — case proceeds under ordinary criminal procedure	KUHAP Arts. 79–88's 7-day model has no analog for pre-adjudication institutional cases

4.2. Four-Regime Fragmentation

Finding. Indonesia's land-dispute framework distributes potentially related questions of title, permits, alleged criminal conduct, and state loss across distinct legal regimes. In the context of continuing agrarian conflicts documented in national KPA data (Konsorsium Pembaruan Agraria 2024), this institutional separation may require affected parties to engage different forums without a mechanism ensuring that findings and measures adopted in one forum inform proceedings in another.

Interpretation. This is a utility failure distinct from that identified in Section 4.1: even where each regime functions correctly on its own terms — a civil court properly adjudicates title, or an administrative body properly reviews a permit — a party seeking full resolution must pursue multiple forums sequentially, at a compounding cost and with a compounding delay, with no institutional mechanism ensuring the findings across the four regimes inform one another.

Proposal (*de lege ferenda*). A coordinated interagency information-sharing mechanism should link BPN, Kejaksaan, relevant civil courts, and administrative bodies dealing with disputes concerning the same parcel. Supported by a shared digital case registry, the mechanism should flag when land is simultaneously subject to civil, criminal, administrative, or state financial proceedings, enabling each forum to take account of findings and measures adopted in the others. Kenya's National Land Commission provides a cautionary comparator: although established to coordinate land administration and address institutional fragmentation, its effectiveness was constrained by existing power structures and veto players (Boone et al. 2019). Any Indonesian coordination mechanism should therefore include independent oversight of the participating institutions, particularly where one of those institutions may itself be implicated in the dispute.

Table 2. Four-Regime Enforcement Gaps

This table compares the four legal regimes involved in land dispute resolution, identifying the typical response provided by each regime and the remedial gap that remains when it operates in isolation. Read together, the rows show why information exchange and coordination across regimes are necessary.

Legal Regime	Typical Response to Land Dispossession	Gap Produced
Criminal law	Prosecution of individual officials	No civil remedy for affected landholders
Civil law	Compensation or title determination between named parties	No mechanism triggering administrative or criminal review
Administrative law	Permit or certificate review/revocation	No asset-recovery trigger
State financial law	Loss quantification for recovery	Scope often limited to immediate transactional loss (see Section 4.1)

4.3. Restorative Justice and the Tiered Framework

Finding. The three case studies considered in this article illustrate different configurations of asymmetry concerning enforcement capacity and the availability of information. They are used as contextual examples for the proposed normative classification, rather than as a basis for general empirical claims about Indonesian land disputes.

Interpretation. These three cases can be classified according to the degree of institutional capture the opposing party exercises over enforcement or the information environment — a criterion the case material itself supports directly, rather than one requiring a separate evidentiary basis for measuring irreversibility. Applying the trinity test, a court's scrutiny of a claimant's documentary chain may satisfy the justice element when it tests the merits of the claim rather than automatically deferring to either party's formal position. By contrast, where a community claimant confronts an actor with materially greater enforcement capacity, restorative justice facilitation cannot be assumed to be voluntary in the ordinary sense. Institutional-scale corruption investigations, in turn, raise a distinct utility problem when no procedural framework accommodates the time required for evidence gathering and interim protection of affected interests.

Proposal (*de lege ferenda*). A tiered framework should be adopted, with institutional capture as the primary classifying axis and scale determining the intensity of the required safeguards within the assigned tier:

Table 3. Tiered Restorative Justice Framework

This table presents the tiered Restorative Justice framework. Tier assignment is determined by the degree of institutional capture the opposing party exercises over enforcement or the information environment; scale determines the intensity of the required safeguards within the assigned tier. Tiers are mutually exclusive and cannot be reclassified downward on grounds of economic or political expediency.

Tier	Actor Type	Illustrative Case	RJ Applicability
1	Individual/community, roughly symmetric parties	Individual or community civil land dispute (general pattern)	Full KUHAP Arts. 79–88
2	Community or private claimant vs. state/corporate actor, moderate scale	Sport Center, Sari Rejo	Hybrid — RJ available where the claim survives evidentiary review; standard adjudication otherwise
3	Alleged capture of the verifying agency itself	PTPN I	Categorically inapplicable during investigation; institutional-track procedure (Section 4.1) applies

The framework accordingly treats institutional capture, rather than scale alone, as the primary basis for tier assignment. A community-scale dispute may require Tier 2 safeguards where a substantial asymmetry of enforcement capacity undermines equal procedural standing. Independent mediation and appropriate safeguards are therefore required rather than an unmodified application of KUHAP procedures.

4.4. Customary Land Tenure: Recognition and the PP 48/2025 Opening

Finding. North Sumatra's customary land governance draws substantially on Minangkabau-influenced adat institutions, which have long organized property relations through mechanisms distinct from, and sometimes in tension with, state and Islamic law operating on the same land (von Benda-Beckmann 2014). According to Said (n.d.), the PRESTICE (Perlindungan Rakyat Melalui Restorative Justice/Protecting the People through Restorative Justice) program has facilitated 106 mediated resolutions. This provides an illustration of how community-rooted mediation may function in individual-scale land disputes, corresponding to Tier 1 above.

Interpretation. PP 48/2025's abandoned-land provisions, which trigger state reclamation after a fixed period of non-use, do not currently distinguish between genuine idleness and active customary stewardship of land that a formal audit might otherwise misclassify as unused. This is a *justice* failure in the trinity sense: applying a uniform non-use standard without an inquiry into customary management risks displacing communities whose land use does not register in formal administrative categories.

Proposal (*de lege ferenda*). PP 48/2025 should recognize documented customary stewardship as a form of productive use exempting land from reclamation, provided the practising community can demonstrate an active, ongoing governance function. The Philippines' Indigenous Peoples Rights Act (1997) and South Africa's post-apartheid land restitution program offer cautionary comparators: both formalized customary

claims yet were hampered by agency capture and documentary ambiguity (Gatmaytan 2007; Hall 2004), suggesting that formal recognition is necessary but insufficient without the interagency coordination and independent oversight proposed in Section 4.2.

Table 4. Customary Land Governance Institutions: Recognition and Integration

This table illustrates how local institutions and alternative dispute resolution mechanisms can be integrated into the formal state legal system. To read the table, evaluate each institution's function and its current legal limitations across the row, ending with the authors' proposal for formalizing its role in land governance.

Institution	Function	Current Legal Status	Proposed Integration
Minangkabau-influenced adat governance	Property and inheritance regulation within a plural legal order	Unrecognized as productive use under PP 48/2025	Formal recognition as exempting land from abandoned-land reclamation
Community-rooted mediation programs	Humanistic mediation for community-scale disputes	Operates as an informal RJ mechanism	Formalized as a Tier 1 RJ mechanism under KUHAP Arts. 79–88

5. Conclusions

The three North Sumatran cases examined here show that Indonesia's land dispute resolution framework fails not uniformly, but in ways that correspond to different elements of Keadilan Bermartabat's trinity of justice, utility, and legal certainty. KUHAP's Restorative Justice mechanism delivers utility for individual-scale disputes but has no temporal accommodation for institutional-scale investigations like PTPN I; four-regime fragmentation forces landholders through sequential, uncoordinated forums even where each regime functions correctly on its own terms; and PP 48/2025's uniform non-use standard risks treating customary stewardship as indistinguishable from genuine idleness. Not every finding points toward state overreach, however — the Sport Center case's rejected claim, resting on an insufficiently documented chain of title, shows the trinity's justice element being satisfied by rigorous evidentiary scrutiny rather than violated by it. These patterns are consistent with the broader national picture documented in KPA's aggregate data. However, the doctrinal analysis here rests on three cases and should be read accordingly rather than as a claim that can be generalized without qualification to the Indonesian legal system as a whole.

The ecological significance of this framework lies in its understanding of land as a social and cultural relation with environmental consequences, rather than merely as an object of ownership or state administration. Where customary stewardship remains active, legal recognition can help preserve practices through which communities maintain responsibility for territory, resources, and future generations. This does not mean that every customary claim should be accepted without evidentiary scrutiny. It means, rather, that

legal certainty should be pursued in a way that is attentive to human dignity, communal livelihood, and the environmental responsibilities embedded in the use and governance of land.

Addressing these failures requires treating them as connected rather than isolated: an institutional RJ track with interim asset-preservation measures for corruption-scale cases, an interagency coordination mechanism to close the fragmentation gap, a tiered restorative justice framework calibrated to institutional capture and scale rather than case type alone, and formal recognition of customary stewardship under PP 48/2025 — each targeting a distinct element of the trinity that the case material shows to be currently unmet. Kenya's experience of coordinating land administration through its National Land Commission offers a useful, appropriately cautionary reference point for the second of these: a similarly motivated institutional fix there was constrained by the very power structures it was meant to check (Boone et al. 2019), a lesson that any Indonesian design should absorb at the outset. In land disputes, justice delayed is justice denied — but a resolution achieving certainty without justice, or justice without the institutional capacity to bind, satisfies only part of what *Keadilan Bermartabat* demands.

Statements

Author Contributions:

Conceptualization, T.P. and U.S.; methodology, T.P.; formal analysis, V.E.P.S. and J.S.; investigation, J.S.; writing—original draft preparation, V.E.P.S. and J.S.; writing—review and editing, V.E.P.S. and J.S.; supervision, T.P. All authors have read and agreed to the published version of the manuscript.

Funding:

This research received no external funding.

Institutional Review Board Statement:

Not applicable.

Informed Consent Statement:

Not applicable.

Data Availability Statement:

The data presented in this study are available from the corresponding author upon reasonable request.

Conflicts of Interest:

The authors declare no conflicts of interest.

AI Tools Declaration:

During the preparation of this manuscript, the authors used Grammarly for language editing. The authors reviewed and edited the output where necessary and take full responsibility for the content of this publication.

References

- Berenschot, Ward, and Afrizal Dhiaulhaq. 2023. "The Production of Rightlessness: Palm Oil Companies and Land Dispossession in Indonesia." *Globalizations* 21 (3): 1–21.
<https://doi.org/10.1080/14747731.2023.2253657>.
- Berenschot, Ward, Afrizal Dhiaulhaq, Otto Hospes, and Dwi Pranajaya. 2025. "The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia." *Journal of Contemporary Asia* 55 (3): 430–51.
<https://doi.org/10.1080/00472336.2024.2440855>.
- Boone, Catherine, Alex Dyzenhaus, Ambreena Manji, Charles W. Gateri, Seth Ouma, James K. Owino, Abdlinasr Gargule, and Jacqueline M. Klopp. 2019. "Land Law Reform in Kenya: Devolution, Veto Players, and the Limits of an Institutional Fix." *African Affairs* 118 (471): 215–37.
<https://doi.org/10.1093/afraf/ady053>.
- Creswell, John W. 2007. *Qualitative Inquiry and Research Design: Choosing Among Five Traditions*. 2nd ed. SAGE Publications.
- Fahmi, Cut. 2024. "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia." *AlterNative: An International Journal of Indigenous Peoples* 20 (1): 157–66.
<https://doi.org/10.1177/11771801241235261>.
- Fitria, Fitria, Hasbi Abd Aziz, Helmi, Cornelia Sasanti Pratiwi, and Ahmad Intan Kamil. 2025. "Reconstructing State Loss Recovery Mechanisms for Good Governance Resulting from Abuse of Authority in Environmental Management in Indonesia." *Jambe Law Journal* 8 (2): 915–938.
<https://doi.org/10.22437/jlj.8.2.915-938>.
- Fitzpatrick, Daniel. 1997. "Disputes and Pluralism in Modern Indonesian Land Law." *Yale Journal of International Law* 22 (1): 171–212.
- Gatmaytan, Augusto B. 2007. "Philippine Indigenous Peoples and the Quest for Autonomy: Negotiated or Compromised." In *Negotiating Autonomy: Case Studies on Philippine Indigenous Peoples' Land Rights*, edited by Augusto B. Gatmaytan, 1–35. International Work Group for Indigenous Affairs; Legal Rights and Natural Resources Center – Kasama sa Kalikasan.
- Ginting, M. 2003. "Lubuk Larangan: Kearifan Lingkungan Masyarakat Mandailing Natal." In *Bunga Rampai Kearifan Lingkungan*, 45–60. Kementerian Lingkungan Hidup Republik Indonesia.
- Hall, Ruth. 2004. "Land Restitution in South Africa: Rights, Development, and the Restrained State." *Canadian Journal of African Studies* 38 (3): 654–71.
- Hiariej, Eddy O. S., and Topo Santoso. 2025. *Anotasi KUHP Nasional*. 1st ed. Rajawali Press.

- Jiwanti, Agung, and Maya Ervita. 2025. "Urgency of Expanding the Meaning of State Financial Losses Based on Ecological Losses Resulting from Corruption in the Natural Resources Sector." *JUSTISI* 11 (3): 702–18. <https://doi.org/10.33506/js.v11i3.4334>.
- Konsorsium Pembaruan Agraria. 2024. *Catatan Akhir Tahun 2024: Konflik Agraria Indonesia*. KPA.
- Nasution, Bahder Johan. 2011. *Metode Penulisan Hukum*. Mandar Maju.
- Prasetyo, Teguh. 2015. *Keadilan Bermartabat: Perspektif Teori Hukum*. 1st ed. Nusa Media.
- Ribot, Jesse C., and Nancy Lee Peluso. 2003. "A Theory of Access." *Rural Sociology* 68 (2): 153–81. <https://doi.org/10.1111/j.1549-0831.2003.tb00133.x>.
- Said, Muhammad. n.d. "Pemprov Sumut Selesaikan 106 Kasus dengan Terapkan Keadilan Restoratif." *ANTARA News Sumatera Utara*. Accessed July 30, 2026. <https://sumut.antaranews.com/berita/639177/pemprov-sumut-selesaikan-106-kasus-dengan-terapkan-keadilan-restoratif>.
- Said, Muhammad. 2025. "Kejati Sumut Tetapkan Dua Mantan Pejabat BPN Tersangka Korupsi Penjualan Aset PTPN." *ANTARA News Sumatera Utara*, October 14, 2025. <https://sumut.antaranews.com/berita/641437/kejati-sumut-tetapkan-dua-mantan-pejabat-bpn-tersangka-korupsi-penjualan-aset-ptpn>.
- Sikor, Thomas, and Christian Lund. 2009. "Access and Property: A Question of Power and Authority." *Development and Change* 40 (1): 1–22. <https://doi.org/10.1111/j.1467-7660.2009.01503.x>.
- Sinaga, Donald, Teguh Prasetyo, and Johannes Kameo. 2023. *Keadilan Restoratif sebagai Kaidah Hukum: Menurut Teori Keadilan Bermartabat dan Mempertimbangkan UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana*. 1st ed. Rajawali Press.
- Soekanto, Soerjono, and Sri Mamudji. 2015. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Rajawali Pers.
- van der Muur, Willem. 2018. "Forest Conflicts and the Informal Nature of Realizing Indigenous Land Rights in Indonesia." *Citizenship Studies* 22 (2): 160–74. <https://doi.org/10.1080/13621025.2018.1445495>.
- von Benda-Beckmann, Keebet. 1984. *The Broken Stairways to Consensus: Village Justice and State Courts in Minangkabau*. Foris Publications.
- von Benda-Beckmann, Keebet. 2014. "Temporalities in Property Relations under a Plural Legal Order: Minangkabau Revisited." *The Journal of Legal Pluralism and Unofficial Law* 46 (1): 18–36. <https://doi.org/10.1080/07329113.2014.886869>.

Legal Instruments

Act 1960. Act No. 5 of 1960 concerning Basic Agrarian Principles (UUPA) (Indonesia).

Act 2023. Law No. 1 of 2023 concerning the Criminal Code (KUHP) (Indonesia).

Act 2025. Law No. 20 of 2025 concerning the Criminal Procedure Code (KUHAP) (Indonesia).

Constitution 1945. The 1945 Constitution of the Republic of Indonesia.

Court Decision 2016. Constitutional Court Decision No. 25/PUU/XIV/2016 concerning State Financial Loss (Indonesia).

Regulation 2016. Regulation of the Supreme Court No. 1 of 2016 concerning Mediation Procedures (Indonesia).

Regulation 2021. Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration (Indonesia).

Regulation 2025. Government Regulation No. 48 of 2025 concerning Enforcement of Abandoned Land (Indonesia).

Regulation of the Minister 2020. Regulation of the Minister of ATR/Head of BPN No. 21 of 2020 concerning Handling and Settlement of Land Cases (Indonesia).

Regulation of the Minister 2024. Regulation of the Minister of ATR/Head of BPN No. 15 of 2024 concerning Prevention-Stage Identification and Assessment of Land Cases (Indonesia).