



UvA-DARE (Digital Academic Repository)

Custom and violence in Indonesia's protracted land conflict

Bakker, L.

DOI

[10.1016/j.ssaho.2023.100624](https://doi.org/10.1016/j.ssaho.2023.100624)

Publication date

2023

Document Version

Final published version

Published in

Social sciences and humanities open

License

CC BY

[Link to publication](#)

Citation for published version (APA):

Bakker, L. (2023). Custom and violence in Indonesia's protracted land conflict. *Social sciences and humanities open*, 8(1), Article 100624.
<https://doi.org/10.1016/j.ssaho.2023.100624>

General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.



Custom and violence in Indonesia's protracted land conflict

Laurens Bakker

Department of Anthropology, University of Amsterdam, Nieuwe Achtergracht 166, 1018WV Amsterdam, the Netherlands

ARTICLE INFO

Keywords:

Indonesia
Land
Conflict
Plantations
Custom
Adat

ABSTRACT

Indonesia has a long and ongoing history of conflict over land between mining and plantation corporations and communities claiming adat (customary) land rights. National law recognizes adat as a source of rights, but in a way that makes it nearly impossible to claim land based on adat rights. This legal status and corporate land control strategies give rise to strong feelings of injustice among communities claiming adat land. In recent years, such communities have formed customary councils and security groups in the provinces of Kalimantan. Suggestions of potential violence are an integral element of the ways in which these groups bring adat claim to corporations. The article argues that while violence is illegal and adat itself a weak legal ground, national law and corporate strategies fail to address such land claims in an adequate manner.

1. Introduction

On 10 October 2021 a team of representatives of PT Laman Mining, a bauxite mining company, visited the village of Laman Satong in the Indonesian province of West Kalimantan.¹ They came to pay an *adat* (customary) fine for mining on land that, according to local custom, belonged to some of these villagers from whom the company had not obtained prior permission (Satria, 2021). The imposition of such *adat* fines has no formal standing in Indonesian law: there hence was no formal obligation for PT Laman Mining to pay. Yet despite lacking such a legal basis such fines are regularly imposed in the Kalimantanese provinces by communities who seek payment from companies for what they deem to be unauthorized usage of *adat* land (see Purwanto & Haryono, 2019; Junef, 2015; Bakker, 2005). Imposing these fines is not necessarily successful: in February 2021 PT Subur Abadi Wana Agung (PT SAWA) an oil palm plantation company thus fined in the province of East Kalimantan refused outright to pay or to return lands claimed by villagers in Long Bentuk. Yet such a refusal is unlikely to end the issue at stake. Long Bentuk's villagers have been making their claim for over

thirteen years and have no intention of dropping it (see Aman, 2021). Such tenacity is not uncommon in *adat* land claims.

The cases of PT Laman Mining and PT SAWA raise two questions that are central to this paper. Why, if *adat* fines lack a legal basis, would a company pay such a fine, as PT Laman Mining did? And why would anyone keep up such a legally unsubstantiated claim for well over a decade, as is the case in Long Bentuk?² The answers consist of at least three elements: the legal basis of *adat* land claims (if not of *adat* fines), the societal legitimacy and mobilizing potential of *adat*, and the perceived injustice of the usage of such land by corporations. In consequence these combined elements can give rise to warnings-threats, from another perspective-that continued neglect of such claims might result in resistance and violent reactions to the company.

Adat rights and rules have a limited but substantiating role in legislation pertaining to land and natural resources. The Indonesian Constitution states in article 18 B that the state recognizes and respects *adat* law communities and their traditional rights as long as they still live according to these traditions and do not go against the principles of the Republic of Indonesia. Rural communities throughout Indonesia

E-mail address: l.g.h.bakker@uva.nl.

¹ This paper is based on research ongoing since 2004 on land issues in Indonesia, specifically in the four provinces of Kalimantan, the Indonesian part of Borneo. The data presented here were gathered during various visits to the provinces of East and North Kalimantan, and to a lesser extent to West Kalimantan, between 2004 and 2019. While the research always had an additional focus on online and media research, the onset of the Covid-19 pandemic has prohibited on-site visits since. Whatsapp, zoom and email have been used as substitutes to in-person meetings. Data was largely gathered through interviews and discussions with one-off and returning collaborators who were offered anonymity in the usage of the material they provided. Overall some 72 interviews provided the interview material on which this article is based.

² Government recognition of the community as an *adat* village would strongly substantiate such claims. I believe that neither village is recognized as such, but unfortunately I was unable to ascertain the current status of either village at the present time. If officially recognized, a village can include *adat* in its village regulations and so include customary law into that level of government.

recognise the existence and force of *hukum adat* (customary law) as regulating access to land and natural resources, yet to prove that such traditions are ongoing customary law or that continuation of community land usage rather than (national) company interests are in line with national principles, is a formidable task for rural communities. The notion that loss of customary lands to corporations is unjust is widely spread among such communities, as are accusations that corporations appropriate more land than they have permits for, collude with government authorities to withhold compensation intended for the population and deceive rural land users as to their legal rights in order to make them hand over their lands, rice fields and gardens.³ Throughout Indonesia communities resist or dispute such land take-overs and seek better inclusion of their interests through legal as well as illegal means to put pressure on companies (e.g. Li & Semedi, 2021; Rutten et al., 2017; Fidh-KontraS, 2014; Semedi & Bakker, 2014). In what follows I seek to show how in Kalimantan, specifically in the province of East Kalimantan, this combination of notions of injustice and formal entitlement have combined with notions of *adat* as a source of rights to mobilize discourses of potential violence. This presents a setting in which corporations regularly pay-off *adat* claimants in order to manage their reputation, avoid hassles and keep the peace. Claiming compensation for customary rights by threatening violence has become a profitable and somewhat specialized spin-off activity for certain *adat* organizations, for whom demands for remedying ongoing injustices as well as suggestions of violent reprisals are part of the repertoire. Such usage of (potential) violence and the sustaining notions of justice, is the subject of this article.

2. Companies and adat land

Plantation companies and to a lesser extent mining companies feature prominently in conflicts over *adat* land.⁴ The quantity and extent of such conflicts became visible at the turn of the century when, from 1998 onwards, a new, more open and democratized style of government made it easier for aggrieved parties to speak out and make their complaints known. From the 1970s onwards, the national government (the New Order regime, 1966–1998) had promoted development of the logging, plantation and mining sectors throughout the archipelago, which became substantial and profitable sectors of the national economy. Suitable locations for such companies to operate were determined by the presence of resources and the availability of accessible ‘empty’ lands. For plantations, soil characteristics and quality were of lesser relevance as fertilizer and other chemicals could be used to upgrade poor soils. The need for large plots of land made that plantations mostly developed in sparsely populated regions of Sumatra, Papua and Kalimantan where few or no private land rights had been registered. The selected lands were generally qualified as state land (*tanah negara*). That is, land under the authority, control and management of the state.⁵ A regular sequence was for forest to first be logged, after which a plantation would be developed on the logged-over site. Logging and plantation companies would receive a usage right to such land for a given period of time, several decades not being unusual for plantations. Indonesian law stipulates that individuals holding private land rights that such concessions infringe upon are entitled to suitable

compensation provided their rights were demonstrable, preferably through proof of registration. *Adat* land would generally not qualify for compensation; first, because *adat* land usage frequently pertained to a communal right to a broad area and, second, because individual plots –if such existed–were rarely registered in any official form. The ensuing loss of land gave rise to protests and resistance, but protests would often be quelled by the police or the army and protesters be beaten or arrested. Memories of such events are still rife among communities in today’s plantation areas and many still consider the land loss unjust and –when no compensation was paid–illegal (Haug, 2014; Li & Semedi, 2021).

In 1998 the New Order regime ended and was replaced by a more democratic government that gave space to the development of civil society, public debate and independent media. As part of these developments, considerable administrative authority –including the authority to give out concessions to mining and plantation companies–was decentralized from the national level of government to that of the provinces and, below these, to that of the districts (*kabupaten*) and city (*kota*) governments. In the Kalimantanese provinces as well as elsewhere the number of concessions awarded increased dramatically. With various levels of government authorized to give out concessions but no central administration of these, a plot of land could be the subject of multiple concessions given out to various companies by different levels of government. In the province of East Kalimantan, which has some of the largest plantation and mining operations in the country, an overlap in concessions of nearly 4,5 million hectares was established in 2019 (FEL GM 2019). In the past few years legislation has been developed to solve such overlaps, yet its implementation is still insufficient. Nasir et al. (2022), found that multiple conflicts resulted from these overlaps between multiple constellations of companies, communities and (regional) governments.

Creating such overlaps appears to have been a conscious strategy for companies and a minor concern for some government officials involved. My fieldwork in East Kalimantan yielded various ways in which plantation and mining companies used overlaps to control strategic plots and so stall or thwart competitors.⁶ Companies sought to build up land banks for their own future expansion as well as to deny competitors access. Such blockages could be attempted in various ways. A company could, for instance, ensure that it would have an information source in the relevant government office from whom it would hear where competitor intended to become active. The company could then seek to obtain a concession permit for that area before its competitor did, or for another location of strategic importance to the competitor’s intended location, such as existing access roads. The company could also apply for a permit from another government level or agency, so creating an overlap that could be used to threaten a legal procedure and discourage the competitor from becoming active. The company could also request a permit from the same government office as its competitor but arrange for it to be backdated to establish an ulterior right. Even if such practices would not always withstand rigorous examination, the ensuing administrative and legal hassle could delay the competitor’s activities considerably or require a financial settlement benefitting the first company. Another strategy was to begin new work outside rather than within the borders of a newly obtained concession. The logic is that the permit area was secure as legal title had been obtained and could be a base from which to informally add neighbouring areas which –once planted–would become part of the plantation. Permits to the area would then be arranged once the ‘mistake’ was discovered, such as when competitors showed an interest. A third strategy was to act fast and develop a location without a permit or a nearby concession. For instance when rival prospectors working with a research permit –but still lacking

³ See Kouwagam (2020) on corporate land practices and de Vos (2019) for an ethnographic study of land acquisition for plantation development.

⁴ Of the 241 such land conflicts registered in 2020 by the Agrarian Reform Consortium (a prominent and specialized NGO) 122 involved plantations and 12 concerned mining companies (Konsorsium Pembaruan Agraria, 2020, pp. 4–5).

⁵ The National Constitution’s article 33 identifies the state as the authority controlling land, water and natural resources and instructs that sectors of the economy that are of importance to the country and affect the lives of the population, are to be controlled by the state.

⁶ Here I specifically refer to a series of some 20 interviews I had between 2007 and 2017 with company officials and land brokers –but Indonesian and foreign–on strategies to obtain rights and access to land. As illegal strategies were freely discussed, the individual interlocutors will remain anonymous here.

a land usage permit or a business development permit-established the presence of coal reserves sufficiently large and accessible to warrant such a step. If a company disposed of strong contacts in relevant government offices or among the national business elite, it could get away with such a 'hijacking' of a location. Especially if it also enlisted the support of regional government, the police or the military, local village heads and such societal or *adat* organizations as may be active in the area.

Such strategies pose a nuisance to many and are complex to counter. In many instances local (*adat*) communities initially sought government assistance to resolve ensuing land conflicts and when this failed sought to address matters through litigation (see for instance Bakhtiar et al., 2019; Berenschot et al., 2021; Tim Inkuiri Nasional Komnas, 2016). Such communities may lose lands, gardens and rice fields. Governments expecting income through taxes on production may fail to see such revenue materialize when lands are not formally brought under development or become the subject of lengthy procedures. Measures such as the 2015 launch of the One Stop Investment Licensing Service (Pelayanan Terpadu Satu Pintu), the ongoing development of a national One Map Geoportal Policy (*Geoportal Kebijakan Satu Peta*) and the recentralization of the authority to give out land permits to the central level of government, are strong drives to unify land usage data and do away with the fuzziness and multiplicity of authorized actors that makes such strategies effective. Yet implementing legislation for such new policies is frequently still lacking and existing permits remain valid, also those awarded by lower governments. Existing problems thus remain. Furthermore, the new policies also attract considerable criticism for their perceived inability to solve the issue of *adat* rights to land. WALHI (2020), a nationwide Indonesian NGO, notes for instance how the data for the One Map Geoportal Policy establishes a 19,3% overlap for all of Kalimantan, but that despite earlier intentions customary village boundaries and *adat* territories have not been included in the data used. Such omissions will do little to solve the problem.

3. *Adat and national law*

Adat claims to land and other natural resources are tenacious and frequently ingrained with a notion of injustice. *Adat* rights to land, proponents claim, existed before colonization and before the Indonesian state came into being. They have been repressed since colonial times but form a substantive and authentic source of norms and regulation that should not be ignored. These rights, they argue, go back to the original Indonesian society, which makes denial oppressive to the Indonesians themselves. Opponents counter that such unwritten and highly diverse local rules do not suffice to provide the clarity, equality and rule of law required for the functioning of a modern nation state. Law should be predictable and accountable, which is in this perspective not the case with *adat*. Uniform and national law is more fair and more efficient.⁷

Adat presently holds a position between these two stances in Indonesia's legal order (see Bedner & Arizona, 2019; Safitri & Moeliono, 2010). It is recognized as an original source of rights, particularly land rights, in legislation.⁸ The Basic Agrarian Law of 1960, the main law regulating land rights up to the present, states in its article 5 that the law pertaining to the land is *adat* law, but in article 3 that communal *adat* rights –which is the most common form of *adat* land claims–must be exercised in accordance with national interest and existing law. Furthermore, in article 6 it is stipulated that the rights to land should

have a social function. The combined meaning of articles 3 and 6 thus is that (*adat*) land rights might be superseded by interests with a greater benefit to society. Particularly during the New Order regime, but also in the present, plantations and mines qualify as having such as societally beneficial and thus supersede individual or communal *adat* land claims.

Adat rights thus are no dead letter, but to obtain official recognition is far from easy. There is, for instance, a possibility to obtain official recognition of communal *adat* land rights –known as *hak ulayat*–through Minister of Agrarian Affairs Regulation 5 of 1999 which detailed a procedure for lower governments to evaluate such a request from a community. For this to happen, a community first needs to be recognized by its regional government as an *adat* law community, that is, a community still adhering to its own *adat* in its daily life. If this *adat* community then is found to engage in communal land usage it can request (with endorsement of its regional government) for mapping and registration of *tanah ulayat* (communally held land) by the National Land Agency.⁹ While a few communities managed to obtain recognition as an *adat* community, registration of communal *adat* land has so far hardly taken place as local governments appear hesitant to arrange for what is essentially a release of land from their authority (see Bakker, 2007; Bedner, 2016).¹⁰ Furthermore, while the 2014 Plantation Law instructs companies to consult with communities if *ulayat* lands are required for plantation development, the law does not say that agreement has to be reached before development can begin. In other words, without agreement *ulayat* lands can still be used in practice (de Vos, 2019; Jasmir, 2018). Recent years have seen a variety of other legal, governmental and civil society initiatives, such as for village *adat* land, but none delivering a clear procedure for recognition or rejection (see van der Muur et al., 2019; Bedner & Arizona, 2019).

Yet absence of legal recognition does not mean claims are abandoned; rather they are substantiated in different ways. *Adat* also functions as an influential socio-cultural identifier. This became quite clear following the 1998 regime change and the decentralization of administrative authority to lower levels of government. With provincial governors, regional heads and parliaments on these levels directly elected by the constituencies of their territories rather than appointed by central government, connections to the local populations became relevant factors. Whereas ethnic and cultural differences were carefully managed as non-issues in the past, they became relevant factors through decentralization and local elections (see Aspinall & Fealy, 2003). Candidates brought ethnicity into politics as a rallying factor. Indigeneity as *putra daerah* ('local children') became relevant in political elections, contrasting such candidates and their followers to migrants originating from elsewhere in the archipelago (see Sakai, 2002). Discourses of indigeneity and indigenous rights that frequently involve notions of *adat* land have become successful mobilizers of ethnic groups (see Li, 2000; Hauser-Schäublin, 2013, pp. 9–11). This also raises the issue of *adat* as a limiting category of rights that excludes other Indonesians from rights available to those lucky enough to be born into an *adat* community (see Henley & Davidson, 2007). Such exclusion is not in line with the Indonesian Constitution which decrees that land and resources should be developed to the benefit of all, thus making enforcement of such exclusivity problematic and perhaps illegal. That does not however do away with the understanding among communities that the loss of their *adat* lands is unjust.

⁷ See for example Slaats et al. (2009) for a discussion of the legal aspects of *adat*. Bourchier (2014) on its role in state building discourse. With 'national law' I refer to such legislation as is put forward by the national government, but it should be noted that provincial and regional governments in Indonesia may also promulgate legislation governing *adat* communities and *adat* rights.

⁸ See Bedner (2016) and Butt and Lindsey (2018, pp. 143–161) for comprehensive overviews of the position of *adat* in Indonesian (land) law.

⁹ That is, provided no other Basic Agrarian Law-derived rights have been registered for this land, as these take precedence.

¹⁰ Another issue is that many communities that might want to claim *ulayat* land technically live in areas where the land is not under the authority of local governments. Even if these are willing to do so, they cannot give these communities such rights.

4. Violent strategies in adat land conflicts

The increased political openness and administrative decentralization that began in 1998 did take place in a time of crisis. In the Kalimantan provinces population groups claiming indigeneity to the regions –especially Dayak, but also Paserese, Kutai and others–argued that large parts of their lands had been seized by corporations, the state and migrants from other parts of Indonesia. While those parties profited, spokespersons argued, the original population did not. Even worse, they were categorically excluded from such development as was taking place on the lands around them.¹¹ Complaints were ignored, protests broken up by the police or the military and protesters detained. Tensions came to the boil in the provinces of West and Central Kalimantan in a series of conflicts in 1997, 1999 and 2001, when indigenous Dayak and Malayu killed hundreds of Madurese transmigrants and forcibly evicted many thousands more.¹² The violence shocked Indonesian society but reinforced a stereotype of Dayak as fierce fighters with traditions of head-hunting and black magic. An older image that had been somewhat overtaken by another, development-oriented image of Dayak as poor and primitive rural dwellers on the margins of society, but that now re-emphasized their potential for violence.

In the nearby province of East Kalimantan no such violence took place, but events in West and Central Kalimantan mobilized indigenous identity there as well. East Kalimantan has some of the most extensive mining and plantation areas in the country and even though indigenous groups make up a relatively small part –some ten percent–of the population, feelings of injustice over loss of *adat* lands is widespread in some of these communities as well. Following the violence, various organizations seeking to represent indigenous interests came to the fore in the province. Many of these were established with a local focus and formed along specific ethnic lines, which meant that it was not uncommon for them to number no more than a few dozen members at first. Over time such groups merged under charismatic leaders whose leadership, rather than clear agendas, provided direction. A few such groups, such as the Dayak Adat Council of Kalimantan (*Dewan Adat Dayak se-Kalimantan*, hereafter DADK) put emphasis on a Kalimantan-wide political pan-Dayakism and the establishment of a structure of adat councils in which experts would explain and apply *adat* rules to settle conflicts (see Bakker, 2009; Buchari, 2014). Other groups developed into more activist bodies championing *adat* and indigenous interests, which would frequently be explained as the provision of security and the representation of Dayak rights (see Bakker, 2015). The councils and security groups collaborate, the latter sometimes acting as the executive branch enforcing the council's decision.

Dressed in a mixture of military-style uniform and traditional costume, members of these security groups catch the eye during protests and other public manifestations: army boots and camouflage are combined with feathered headgear, string baskets and beadwork jewellery. They explain their presence not as part of the protest, but as keeping order: they ensure that protesting Dayak keep calm and no such violence as took place in West and Central Kalimantan –for which the current image of Dayak ensures the potential–will occur. Yet to non-Dayak spectators they also emanate a threat: their ethnic and militant appearance is a strong reminder of exactly that capacity and their organized presence suggests that the group is able to operate in a disciplined way. ‘As long as they wear those costumes, there is no need to worry’, a senior police official explained to me in 2016, ‘If they get up to violence, it will occur afterwards, and they [the perpetrators] will be anonymous’. In terms of security their message is twofold: the wellbeing

of protesters or such *adat* officials as might be present is ensured, but the security of those against whom the protest is directed is put into question. There is no violence now, but that might follow if rights must be enforced.

An example of the collaboration between an *adat* council and an ethnic security group is the following sequence of events that took place in the district of Paser in East Kalimantan in 2005. A local Dayak farmer maintained that part of his family lands had been taken in use by a plantation company a decade earlier, without their consent and without compensation payments being made. At the time he had not dared to protest, knowing that the political regime did not hold with such complaints and fearing a violent reaction by the police. Besides, he had no official title to the land aside from his *adat* claim. By 2005 the establishment of a Dayak *adat* council in the nearby city of Balikpapan had him decide to ask for their assistance. A council member came to visit and established, based on reports from *neighbours* and the village's *adat* head, that the land at stake indeed was locally considered to belong to the farmer's family. The council member considered the grounds for this claim and agreed that they were legitimate as per local *adat*. He reported his findings in writing and addressed these to the plantation company with a request for a return of the lands or, if this was not possible, payment of an indemnification. As no reply was received, the council member went to the plantation to ask after their answer. He went accompanied by the head of a local security group who was known to both the plantation supervisor and the local police, as the security group leader was a retired police official. The plantation supervisor received them politely but explained that he could do nothing. His company held official deeds to the land which overruled other claims. Personally, he felt regretful, but the decision was made by more senior managers elsewhere. The two men left, but a few days later the security group leader returned to see the manager again. He was now accompanied by about a dozen members all dressed in white shirts and carrying *mandau* (a Dayak machete) on their belts.¹³ The group leader explained to the supervisor that word had reached him of the company's refusal to accommodate the farmer and that various people among the larger *adat* community in the area were quite upset. These people, he continued, felt that the company had profited from the land for well over a decade without being asked for anything in return. A refusal now was tantamount to stealing the land away from its rightful owner. The security group had come to warn the supervisor that a continued refusal to heed the plight of the farmer could make for a violent reaction from among the angered population. The leader had heard that plans were at hand to burn plantation buildings and cut down or poison its trees. He and his group would try to prevent this and maintain order as per their role in local society, but he could give no guarantees. Yet he had two solutions to propose. First, the company would pay the farmer the long overdue compensation, in exchange for which the company would be allowed to continue using the land. Second, the plantation would hire members of the security group to guard its territory from damages by those angered by the company's initial refusal, until things settled down again.¹⁴ Both propositions were accepted by the manager so as to avoid further trouble.

Such actions are not uncommon. Once the palms are bearing fruit, oil palm plantation companies are relatively vulnerable. With very few people working on the plantations it is relatively easy for outsiders to enter the extensive plantations and damage or poison trees or burn heaps of harvested fruits (by pouring gasoline over them). Plantation

¹¹ Based on interviews with spokespersons of four different indigenous groups organizations between 2004 and 2007.

¹² Tensions leading up to the violence entailed more than land issues alone, but the full complexity is beyond the range of this paper. See van Klinken (2007) for a more extensive discussion.

¹³ When I wondered whether the *mandau* served a practical or martial purpose I was told that they were cultural artefacts part of the group's attire. I asked whether they would not be experienced as intimidating to which the group's leader answered that such was not intended. On this leader, see also Bakker (2021).

¹⁴ The security group and *adat* council received a gratification for their assistance as well.

workers often are low-paid immigrant workers brought in from other parts of Indonesia with little sympathy for or loyalty to the company. They generally prefer to keep out of these conflicts for fear of being targeted as land-stealing outsiders and avoid or ignore such saboteurs should they come across them. Plantation management is aware of this and is usually willing to pay to avoid such hassles (see also Li, 2018, p. 333), provided the group does not make too much of a public event of their success or comes by too often. Overall sums involved are relatively low, ranging between several hundred and two- or three thousand dollars. Where public opinion is brought in, for instance through protesters setting up roadblocks or seeking attention for their plight through media or NGO assistance, companies are generally less quick to settle, as is illustrated by the case of Long Bentuk and PT SAWA with which this paper opened, especially since such settlement is likely considerably more expensive.

Threats of violence, arson or vandalism thus have come to sustain *adat* land claims where legal status of such claims does not suffice. If posing quite a contrast to recourse to the law or NGO intervention, such threats deliver results in the form of cash payments, (temporary) employment or –sometimes- land usage arrangements between *adat* plaintiffs and *plantation* management. The complexity of *adat*'s legal standing sanctions such potential violence and –somewhat ironically- has substantiated the rise of such modern-day customary councils and security groups.

5. Conclusion

A photograph depicting the meeting between the team of PT Laman Mining and the villagers of Laman Satong sees them posing behind multiple stacks of plates while an impressive earthenware jar is being handed over (Satria, 2021). *Adat* fines in Kalimantan are customarily expressed in such goods, an aspect that must continue as it shows the ongoing adherence to traditional rules. Yet these goods are mostly symbolic today as their financial value is relatively low. The fine also includes a financial component which is not visible in the picture nor made public in another way. The image is illustrative of the situation discussed in the above. *Adat*, a source of land rights that is recognized in Indonesian law but that is almost unclaimable in reality forms a focal point of notions of unjust land dispossession and a unifying and mobilizing factor for such groups as maintain to have it. Like the jar, its value is not in its immediate usage but in the meaning that sits behind it. In Kalimantan feelings of injustice run deep and go back decades, causing claimants of *adat* land to have little confidence in official law as a forum to have their grievances addressed. Alternatives such as offered by non-state, ethnically exclusive and potentially violent *adat* organizations are problematic from a democratic and rule of law perspective, but they do address the grievances and suggest a measure of recognition through the payments they obtain. Yet such payments are relatively small sums, and the suggestion of violent capacities brings a degree of coercion. Especially plantations are vulnerable, and the management is frequently willing to buy off such threats for small occasional sums. Although temporarily satisfactory, these payments do little to settle the issue in the long term. Another claim may follow in due time, as *adat* claimants generally maintain to have an ongoing right and companies pay compensation for usage. Notions of injustice stimulate *adat*'s prominence and legitimize the somewhat shady strategies employed in seeking payments from companies, but on a more structural level this phenomenon is indicative of a shortcoming in land governance that requires a more fundamental solution.

Funding

Part of the research for this article was conducted as part of the research program 'Securing the Local: The Role of Non-state security groups (NSSGs) in the Struggle against Extremism in Kenya, Nigeria and Indonesia' financed by the Netherlands Organisation for Scientific

Research (Nederlandse Organisatie voor Wetenschappelijk Onderzoek, NWO), WOTRO Science for Global Development Programme grant number W 08.420.113.

CRedit authorship contribution statement

Laurens Bakker: is the sole author and responsible for, Conceptualization, Data curation, Formal analysis, and writing of the paper.

Declaration of competing interest

The author declares that he has no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

References

- Aman, K. (2021). *PT. SAWA tolak kembalikan wilayah adat dan bayar denda, masyarakat adat long Bentuk blokir jalan*. Retrieved from <https://kaltim.aman.or.id/2021/02/08/1052/>.
- Aspinall, E., & Fealy, G. (2003). Introduction. Decentralisation, democratisation and the rise of the local. In E. Aspinall, & G. Fealy (Eds.), *Local power and politics in Indonesia. Decentralisation and democratisation*. (pp. 1–15). Singapore: Institute of Southeast Asian Studies.
- Bakhtiar, I., Suradiredja, D., Santoso, H., & Saputra, W. (2019). *Hutan kita bersawit*. Jakarta: Yayasan Kehati.
- Bakker, L. (2005). Resource claims between tradition and modernity: *Masyarakat adat strategies in mului (kalimantan timur)*. *Borneo Research Bulletin*, 36, 29–50.
- Bakker, L. (2007). Land administration and *hak ulayat*. A comparison of policies in the East Kalimantan districts of Pasir and Nunukan. In H. de Jongh, G. Persoon, & W. Kustiawan (Eds.), *Options for biodiversity conservation and sustainable use in lowland forests of southeast borneo* (pp. 153–170). Institute of Environmental Sciences, Leiden University.
- Bakker, L. (2009). *Adat, land and popular democracy. Dayak politics in East Kalimantan*. *Borneo Research Bulletin*, 40, 202–220.
- Bakker, L. (2015). Illegality for the general good? Vigilantism and social responsibility in contemporary Indonesia. *Critique of Anthropology*, 35(1), 78–93.
- Bakker, L. (2021). Ascension et chute d'un preman indonésien. *Truand ou bandit social? Terrain*, 74, 34–151.
- Bedner, A. (2016). Indonesian land law: Integration at last? And for whom? In J. McCarthy, & K. Robinson (Eds.), *Land & development in Indonesia. Searching for the people's sovereignty* (pp. 63–90). Singapore: ISEAS Publishing.
- Bedner, A., & Arizona, Y. (2019). *Adat in Indonesian land law: A promise for the future or a dead end. The Asia Pacific Journal of Anthropology*, 20(5), 416–434.
- Berenschot, W., Dhiaulhaq, A., Afrizal, & Hospes, O. (2021). Palm oil expansion and conflict in Indonesia. In *Policy report no. 5/2021*. Leiden: Royal Netherlands Institute of Southeast Asian and Caribbean Studies.
- Bourchier, D. (2014). *Illiberal democracy in Indonesia: The ideology of the family state*. London and New York: Routledge.
- Buchari, S. A. (2014). *Kebangkitan etnis menuju politik identitas*. Jakarta: Yayasan Pusataka Obor.
- Butt, S., & Lindsey, T. (2018). *Indonesian law*. Oxford: Oxford University Press.
- Fel, G. M. (2019). *Detail perizinan Kaltim yang lebih luas Dari daratan provinsi dan membuat murka pimpinan KPK, Kaltim kece, 17 july*. Retrieved from <https://kaltimkece.id/wart/a/lingkungan/detail-perizinan-kaltim-yang-lebih-luas-dari-daratan-provinsi-dan-membuat-murka-pimpinan-kpk>.
- Fidh-KontraS. (2014). Indonesia: No development without rights. In *International fact-finding report. Joint submission to the UN committee on economic, social and cultural rights in view of the examination of the report of Indonesia*. Jakarta: FIDH-KontraS.
- Haug, M. (2014). Resistance, ritual purification and mediation: Tracing a Dayak community's sixteen-year search for justice in East Kalimantan. *The Asia Pacific Journal of Anthropology*, 15(4), 357–375.
- Hauser-Schäublin, B. (2013). Introduction. The power of indigeneity: Reparations, readjustments and repositioning. In B. Hauser-Schäublin (Ed.), *Adat and indigeneity in Indonesia. Culture and entitlements between heteronomy and self-ascription* (pp. 5–17). Göttingen: Universitätsverlag Göttingen.
- Henley, D., & Davidson, J. (2007). Introduction. Radical conservatism, the protean politics of adat. In J. Davidson, & D. Henley (Eds.), *The Revival of Tradition in Indonesian Politics. The deployment of adat from colonialism to indigenism* (pp. 1–49). London/New York: Routledge.
- Jasmir. (2018). Pengembalian status tanah ulayat atas hak gunah usaha di Indonesia. *Soumatra Law Review*, 1(1), 92–111.
- Junef, M. (2015). Penerapan sanksi adat kepada perusahaan dan pihak lain dalam peradilan adat. *E-Journal Widya Justisia*, 1(2), 98–106.
- van Klinken, G. (2007). *Communal violence and democratization in Indonesia*. Small Town Wars. London, UK: Routledge.
- Konsorsium Pembaruan Agraria. (2020). *Catatan akhir tahun 2020 konsorsium pembaruan Agraria. Edisi peluncuran I: Laporan konflik Agraria di Masa pandemi dan krisis ekonomi*. Jakarta: Konsorsium Pembaruan Agraria.
- Kouwagam, S. (2020). How lawyers win land conflicts for corporations. *Legal Strategy and its influence on the Rule of Law in Indonesia* (PhD thesis Leiden University).

- Li, T. M. (2000). Articulating indigenous identity in Indonesia. Resource politics and the tribal slot. *Comparative Studies in Society and History*, 1, 149–179.
- Li, T. M. (2018). After the land grab: Infrastructural violence and the “Mafia System” in Indonesia’s oil palm plantation zones. *Geoforum*, 96, 328–337.
- Li, T. M., & Semedi, P. (2021). *Plantation life. Corporate occupation in Indonesia’s oil palm zone*. Durham and London: Duke University Press.
- van der Muur, W., Vel, J., Fisher, M. R., & Robinson, K. (2019). Changing indigeneity politics in Indonesia: From revival to projects. *The Asia Pacific Journal of Anthropology*, 20(5), 379–376.
- Nasir, M., Bakker, L., & van Meijl, T. (2022). coal mining governance in Indonesia: Legal uncertainty and contestation. *Australian Journal of Asian Law*, 22(1), 53–67.
- Purwanto, S. A., & Haryono. (2019). Dimensi adat dan dinamika komunitas Dayak di Kalimantan Timur. *Antropologi Indonesia*, 40(1), 67–87.
- Rutten, R., Bakker, L., Alano, L., Salerno, T., Savitri, L., & Shohibuddin, M. (2017). Smallholder bargaining power in large-scale land deals: A relational perspective. *Journal of Peasant Studies*, 44(4), 726–752.
- Safitri, M., & Moeliono, T. (2010). Bernegara hukum dan berbagi kuasa dalam urusan agrarian di Indonesia: Sebuah pengantar. In M. Safitri, & T. Moeliono (Eds.), *Hukum Agraria dan Masyarakat di Indonesia*. Jakarta: HuMa, KITLV, Van Vollenhoven Institute Leiden University.
- Sakai, M. (2002). Regional responses to resurgence of ADAT movements in Indonesia. In M. Sakai (Ed.), *Beyond jakarta, regional autonomy and local societies in Indonesia* (pp. 245–269). Adelaide: Crawford House.
- Satria, N. I. (2021). Akui kesalahan PT laman mining bayar denda adat, diminta segera selesaikan ganti rugi tanam tumbuh. *Tribun Pontianak 11 October*.
- Semedi, P., & Bakker, L. (2014). Between land grabbing and farmers’ benefits. Land transfers in West Kalimantan, Indonesia. *The Asia Pacific Journal of Anthropology*, 15 (4), 376–390.
- Slaats, H., Rajagukguk, E., Elmiyah, N., & Safik, A. (2009). Land law in Indonesia. In J. Ubink, A. Hoekema, & W. Assies (Eds.), *Legalising land rights. Local practices, state responses and tenure security in africa, asia and Latin America* (pp. 493–526). Leiden: Leiden University Press.
- Tim Inkuiri Nasional Komnas, H. A. M. (2016). *Inkuiri nasional Komnas HAM: Hak masyarakat hukum adat atas Wilayahnya di kawasan hutan*. Jakarta: Komnas HAM.
- de Vos, R. (2019). *Oil palms in the rice field. An ethnography of large-scale land acquisition for oil palm plantation development in West Kalimantan*. PhD thesis Leiden University.
- WALHI. (2020). Kebijakan Satu Peta menuju Indonesia Maju “Pengkakuan wilayah adat dalam kebijakan satu Peta” press release. at: <https://www.walhi.or.id/>.