THE STATE'S ROLE IN RESOLVING INDIGENOUS LAND CONFLICTS: RESTORING CUSTOMARY LAND RIGHTS FOLLOWING THE REVOCATION OF THE 2010 APEC TOURISM DEVELOPMENT DECREE IN JIMBARAN, BALI

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ABSTRACT

This article explores how the Indonesian government exercises authority over a long-standing customary land dispute in Jimbaran, Bali. The conflict concerns the proposed Bali International Park and the infrastructure debates surrounding the 2013 Asia-Pacific Economic Cooperation (APEC) Summit. It shows how government institutions have shifted from supporting a globally-oriented tourism development plan to examining, mediating, and possibly restoring indigenous land rights. The study looks into what this change reveals about the government's ability to balance economic growth with indigenous justice. Using a qualitative single-case study approach, the research includes process tracing, legal and institutional analysis, document review, and community field observation. The text discusses Weberian state authority, perspectives on legal pluralism from Griffiths and Merry, Anaya's framework on indigenous rights, and the UNDRIP. It reveals that state authority is neither uniform nor purely restorative. Instead, restitution relies on factors such as bureaucratic divisions, political activism, legal review of titles, customary legitimacy, and the state's desire to sustain its credibility as a developer. The article proposes the Fragmented Embedded Restitution model to illustrate how states can transition from promoting development to mediating conflicts without necessarily fully restoring legal rights.

Keywords: Indigenous Land Rights, Legal Pluralism, State-In-Society, Embedded Autonomy, Tourism Development.

1. INTRODUCTION

Land conflict in Indonesia sits at the intersection of development, state authority, and competing systems of tenure. The state has broad constitutional and statutory powers over land and natural resources, but it also recognizes, subject to legal conditions, customary-law communities and their traditional rights. This dual structure is historically rooted. Colonial agrarian governance expanded the legal availability of land for investment, while Law No. 5 of 1960 on Basic Agrarian Principles attempted to replace the colonial order, affirm the social function of land, and recognize hak ulayat where it continued to exist. During the New Order, however, centralized development and concessionary governance frequently subordinated socially embedded claims to industrialization, infrastructure, and investment. Reformasi and decentralization opened new channels for customary mobilization, regional recognition, and litigation, but practical protection still depends on land status, bureaucratic recognition, sectoral licensing, and political negotiation (Hall, Hirsch, & Li, 2011; Rachman & Masalam, 2017; Bedner & Arizona, 2019).

Bali intensifies this tension because tourism is simultaneously a global economic asset and a spatial force that transforms land values, infrastructure, coastal areas, and community livelihoods. Balinese desa adat, temples, ritual obligations, and collective property relations remain influential in the social meaning of land. Tourism development therefore takes place within a dense social and normative landscape rather than on institutionally empty territory. Research on Bali has shown that tourism competitiveness, resident welfare, and contested spatial development are tightly connected, while resistance to reclamation and other large projects demonstrates that local legitimacy can constrain development coalitions (Chin & Hampton, 2020; Wardana, 2019; Tans, 2025).

The Jimbaran dispute provides a critical case. The proposed Bali International Park (BIP) was publicly associated with preparations for the 2013 APEC Summit and a large integrated tourism-development agenda. Presidential Decree (Keppres) No. 29 of 2010 created the national organizing committee for the APEC Summit and designated Bali as the host location. It did not, by itself, transfer the disputed land. Keppres No. 22 of 2012 subsequently revoked and replaced the earlier organizing instrument while continuing the summit-preparation framework. This distinction is central: replacement of an APEC organizing decree is not equivalent to cancellation of independently created corporate land rights, nor does it automatically restore customary tenure. The political decline or non-realization of a development project may therefore leave a durable legal footprint in the form of titles, permits, transactions, or spatial designations.

The case matters because the state appears in two roles that are often treated separately in International Relations and political sociology. Internationally, Indonesia used APEC hosting to project economic openness, diplomatic capability, and investment readiness. Domestically, the same state remained responsible for constitutional legality, social order, and the protection of customary communities. The resulting conflict is not simply 'state versus society.' It is a conflict among different state institutions, corporate rights, customary authority, and competing conceptions of legitimate development. The core research questions are therefore: (1) how did the Indonesian state exercise authority and navigate bureaucratic fragmentation in addressing Jimbaran customary-land claims after the APEC-linked development mandate lost its original rationale; and (2) what does the attempted or ongoing restitution process reveal about the state's capacity to balance economic development with indigenous justice in a legally plural environment?
The article addresses two gaps. First, Indonesian agrarian-conflict scholarship is strongest on dispossession, exclusion, concession creation, and the politics of recognition, but gives less attention to what happens after a strategic project fails, expires, or loses political support. Project failure does not necessarily reverse prior land-control arrangements. Second, state-capacity approaches and legal-pluralist approaches are rarely combined to explain restitution. This study therefore links Migdal's fragmented State-in-Society, Evans' embedded autonomy, Weberian legal-rational authority, Griffiths and Merry's legal pluralism, and Anaya's rights-based approach. Its main theoretical contribution is the Fragmented Embedded Restitution (FER) model, which treats restitution as a conditional transition from development sponsorship to legally enforceable remedy rather than as a single sovereign act (Migdal, 2001; Evans, 1995; Griffiths, 1986; Merry, 1988; Anaya, 2004).

2. METHOD

This research uses a qualitative explanatory single-case design and process tracing. Jimbaran was selected for theoretical significance: it combines an internationally visible economic event, tourism-led development, a strong customary institutional environment, corporate land control, multiple levels of government, and an unresolved claim for restoration. Process tracing reconstructs the sequence from historical community claims and corporate control, through the APEC organizing framework and BIP proposal, to the replacement of Keppres No. 29/2010, non-realization of the project, renewed customary claims, and subsequent demands for mediation and title review. The objective is to identify mechanisms connecting international-development ambition, domestic state fragmentation, social mobilization, and potential restitution rather than to infer statistical generalization (Beach & Pedersen, 2019).

Evidence is drawn from four sources: legal and policy documents; academic and documentary materials on Bali, agrarian conflict, and customary rights; community-engaged field observation undertaken through Universitas Prof. Dr. Moestopo (Beragama); and post-activity evaluation of issues raised by participants and stakeholders. The field activity involved lecturers, students, and educational staff and focused on legal and bureaucratic pathways available to customary communities. It revealed recurring perceptions of asymmetry between communities and corporate actors, particularly concerning litigation costs, access to legal expertise, intimidation concerns, and distrust of formal processes. These observations are used as evidence about how state institutions are experienced, not as proof of ownership or legal entitlement.

Validity is strengthened through source and temporal triangulation. Community, corporate, official, and media claims are distinguished from verified legal instruments. Assertions concerning HGB status, expiration, renewal, acquisition legality, or entitlement to restitution require confirmation through land records, administrative decisions, or final judgments. The analysis therefore rejects the shortcut that revocation of Keppres No. 29/2010 equals restoration of customary land. Evidence is coded around sources of authority, institutional competence, development rationales, customary claims, legal-plural interaction, and remedial action. This design also separates the research team's normative commitment to indigenous justice from conclusions about legal title, which must remain evidence based.

3. RESULTS AND DISCUSSION

Developmental diplomacy and fragmented state authority
The first finding is that the conflict cannot be reduced to a private property dispute. The APEC connection placed Jimbaran within a national strategy of international economic diplomacy. Major international events create incentives to demonstrate infrastructure, hospitality capacity, investment readiness, and political stability. In this setting, tourism projects can acquire exceptional urgency because national prestige, investment promotion, and local spatial transformation temporarily converge. Yet the legal architecture remains dispersed across ordinary administrative

instruments. Keppres No. 29/2010 organized the summit; it did not convey the disputed land to PT Jimbaran Hijau. When Keppres No. 22/2012 replaced it, the summit framework changed, but the legal consequences of earlier land transactions did not automatically disappear.

Migdal's State-in-Society approach explains why the subsequent policy trajectory is fragmented. The relevant 'state' includes the presidency, tourism authorities, provincial and regency governments, land administration, legislatures, courts, and enforcement bodies. These organizations possess different competencies and political incentives. National actors may prioritize investment and reputation; local executives confront community relations and spatial planning; land authorities determine title status; legislatures provide venues for grievance and oversight. Customary institutions exercise social authority even when their claims are incompletely translated into formal land-law categories. State authority therefore changes as coalitions, political costs, and institutional access points change (Migdal, 2001).

This fragmentation creates both opportunity and paralysis. Once the summit passed and the BIP project did not materialize as originally envisioned, the urgency supporting rapid development weakened. Community mobilization, political advocacy, and demands for land review increased the cost of administrative inaction and reopened questions that had appeared settled. Yet no single institution can necessarily deliver restitution. A local legislature may support restoration but lack authority to cancel a national land right; a land office may review title status but be constrained by documentary validity or litigation; political executives may mediate without being able to alter every legal consequence of past transactions. The state can therefore shift from project sponsor to conflict mediator without reaching a final remedy.

Embedded autonomy, legal-rational authority, and legal pluralism

Evans' concept of embedded autonomy provides a second explanation. Developmental capacity requires institutions that are sufficiently autonomous to apply public rules yet embedded enough to understand affected social groups (Evans, 1995). In a high-value tourism corridor, autonomy is necessary because corporate and political interests can influence land decisions. Embeddedness is equally necessary because Balinese customary tenure cannot be understood solely through market price or individual certificates. Land may carry obligations to desa adat, temples, ritual access, and collective identity. A development strategy that treats these dimensions as external to economic planning risks producing resistance, litigation, and long-term uncertainty.

Restitution therefore requires a recalibration of capacity. The state must be able to conduct an independent title and permit review while engaging customary institutions in a structured way. Reversal is not necessarily evidence of state weakness. A capable state may need to revise an obsolete or socially illegitimate policy. The decisive test is whether this revision produces clear procedures, public reasons, and enforceable remedies. If government mediates indefinitely without determining title status, it is socially engaged but administratively weak; if it performs a purely technical review without meaningful community participation, it remains autonomous but insufficiently embedded. Social legitimacy is thus part of state capacity rather than an external constraint upon it.

Weberian legal-rational authority sharpens this point. Political sympathy for a customary claim cannot itself restore land. Effective restitution requires a legally competent institution to establish the origin and status of rights, the validity of transfers, the duration and renewal of HGB or other titles, spatial conformity, and the legal consequence of project non-performance. Even if a corporate title has expired, expiration alone does not determine the identity of the subsequent rights holder. Corrective state authority must therefore create an auditable chain from historical claim to present legal status and from legal status to remedy. The Jimbaran case suggests that Indonesian governance is often stronger at constituting and coordinating development rights than at correcting the distributive consequences of failed development.

Legal pluralism explains why formal legality has not ended the dispute. Griffiths (1986) and Merry (1988) reject legal centralism as an empirical description of societies in which multiple normative orders coexist. In Jimbaran, national agrarian law, registered land rights, spatial planning, customary institutions, religious obligations, and community histories overlap. A certificate can establish formal legal rights without resolving every question of social legitimacy; a customary claim can be historically compelling without yet satisfying the evidentiary requirements of state administration. Resolution therefore requires institutional translation rather than the automatic superiority of one normative order. Participatory mapping, records of customary use, temple documentation, transaction archives, land-office data, and witness testimony can be assembled within a common evidentiary process. Recognition of adat should not eliminate formal law; it should improve the state's capacity to interpret collective tenure without erasing its social character (Bedner & Arizona, 2019; Arizona, Wicaksono, & Vel, 2019).

Indigenous justice and the Fragmented Embedded Restitution model

A rights-based framework shifts attention from administrative discretion to standards of legitimate governance. Anaya (2004) and the United Nations Declaration on the Rights of Indigenous Peoples emphasize the relationship between land, cultural continuity, participation, consultation, and redress. UNDRIP does not automatically determine domestic title in Jimbaran, but it provides a normative benchmark. Development decisions affecting customary communities should include early and culturally appropriate participation, transparent information, and effective remedies. Where full restoration is legally possible it should be considered; where competing rights or irreversible transactions prevent it, alternatives may include compensation, substitute land, benefit sharing, or guaranteed access to culturally significant sites. The point is not to transplant international law mechanically, but to evaluate whether state conduct meets contemporary expectations of participation and remedy.

The empirical evidence supports a cautious conclusion: the state has reopened the dispute but has not yet demonstrated completed restitution. Its actions can be understood in three periods. First, authority was developmental and facilitative as APEC hosting and tourism policy generated momentum for large-scale investment. Second, the event-driven rationale eroded: the organizing decree was replaced, the summit was completed, and the proposed BIP did not materialize as initially anticipated. Third, the issue became one of legacy governance, in which state institutions were called upon to receive petitions, mediate, review land status, and assess competing claims. This is important because the politics of restitution begins where the politics of project cancellation ends. A state may cease to support a project but still leave its legal footprint intact.

To explain this transition, the article proposes the Fragmented Embedded Restitution (FER) model. FER identifies four stages. Stage 1, developmental activation, occurs when international prestige, investment policy, or strategic-development narratives accelerate land conversion. Stage 2, societal contestation, occurs when affected communities mobilize customary organizations, civil society, political allies, litigation, or public protest, raising the legitimacy cost of continuation. Stage 3, bureaucratic reopening, occurs when projects fail, governments change, permits expire, or oversight institutions revisit previous arrangements. Stage 4, restitutive conversion, occurs only when a competent institution translates recognition into an enforceable remedy. Progress is reversible; a dispute may remain at Stage 3 for years.

Four variables determine whether reopening becomes restitution: legal clarity about rights and institutional authority; community representational capacity; bureaucratic autonomy from concentrated interests; and embedded legitimacy generated through meaningful engagement with affected communities. The model predicts three failure modes. Fragmented paralysis occurs when many institutions participate but none assumes responsibility for a final decision. Captured regularization occurs when review consolidates the position of powerful actors. Symbolic restitution occurs when government recognizes grievances but provides no enforceable remedy. Successful restitution requires synchronized political support, legal competence, plural recognition, and implementation capacity. FER therefore extends Migdal by specifying when fragmentation can become adaptive, extends Evans by applying embedded autonomy to corrective governance, and treats legal-plural competence as a dimension of state capacity rather than merely a description of normative diversity.

The broader International Relations implication is that international economic diplomacy has domestic distributive afterlives. Summit diplomacy and investment promotion are usually evaluated through reputation, connectivity, infrastructure, and economic returns. Jimbaran shows that the material consequences of these projects can persist after the international event ends. A state that projects global economic legitimacy while leaving local rights unresolved risks a domestic legitimacy deficit and long-term investment uncertainty. Indigenous justice and sustainable development are therefore not necessarily opposing objectives. Early tenure-risk assessment, meaningful consultation, transparent land acquisition, and a credible post-project remedy can strengthen both rights protection and the predictability on which legitimate development depends.

4. CONCLUSION

This study asked how the Indonesian state exercised authority in addressing customary land claims in Jimbaran after the APEC-linked development rationale weakened, and what the process reveals about the balance between economic development and indigenous justice. The central finding is that state authority has shifted but restitution has not been shown to be legally complete. The state first acted as organizer and facilitator of an internationally visible development agenda; it later became a site of mediation, title review, political advocacy, and demands for corrective action. Crucially, Keppres No. 29/2010 was an APEC organizing instrument, and its revocation and replacement did not itself extinguish land rights or return customary land.

The case demonstrates that restitution is institutionally more demanding than project authorization. Migdal explains why the state is fragmented across agencies and levels of government; Evans shows that effective correction requires

both bureaucratic autonomy and social embeddedness; Weberian authority requires legally competent, auditable administrative acts; legal pluralism explains the coexistence of formal title and customary legitimacy; and indigenous-rights norms make participation and effective redress tests of legitimate governance. Together, these insights support the FER model's four-stage sequence from developmental activation to contestation, bureaucratic reopening, and restitutive conversion.

For policy, the immediate priority is an integrated land-status review that reconstructs the chain of title, transfers, extensions, spatial decisions, and relevant community claims. A cross-institutional mechanism should have a clear lead authority, deadlines, written reasons, and participation by land administration, provincial and regency governments, desa adat representatives, and independent socio-legal expertise. Customary evidence should be incorporated alongside formal records where collective, sacred, or historical uses are relevant. Future strategic and event-led development should also include ex ante tenure-risk assessment and an explicit restoration plan if a project is abandoned. Theoretically, the case shows that state capacity must include corrective capacity: the ability not only to promote development, but also to repair the legal and distributive consequences when development fails or loses legitimacy. Further research should test FER comparatively across tourism, mining, plantation, coastal, and infrastructure conflicts in Indonesia and other Global South settings.

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