Law in Land Registration Rights: Regulation, Protection and Legal Certainty

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ABSTRACT

Land registration plays a fundamental role in protecting property rights and ensuring legal certainty. However, disputes frequently arise when individuals apply for land rights over parcels whose previous tenure has expired, particularly concerning the legal status of former right holders. This study examines Indonesian land registration regulations, analyzes the legal position of former right holders, and proposes reforms to strengthen legal protection and certainty. The research combines normative legal analysis with an examination of judicial decisions and empirical evidence from thirteen Land Offices. The findings indicate that, *first*, existing regulations lack clear procedures for granting and registering rights over land with expired tenure. Consequently, Land Offices frequently delay applications when disputes concerning previous rights or compensation remain unresolved, creating inconsistent administrative practices and prolonged legal uncertainty. *Second*, judicial interpretations and administrative decisions differ regarding the legal position of former right holders. Although tenure expiration terminates their previous land rights, former holders may retain compensation claims under specific legal circumstances, particularly when they continue to possess and maintain the land. These differences complicate the resolution of competing claims and weaken legal protection. This study concludes that the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency should clarify the legal consequences of tenure expiration, establish uniform registration procedures, and define the conditions governing compensation claims to promote fairness, administrative consistency, and legal certainty.

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Introduction

Land occupies a fundamental position in human life because it supports settlement, economic activities, social relationships, and cultural continuity.[1] Individuals and communities depend on land for housing, agriculture, fisheries, livestock production, and other activities that sustain their livelihoods.[2] Land also serves two interconnected functions as a social asset and an economic asset. Its

[1] Yang Zhang and Yi He, 'Human-Land Relationship in the Construction of Historical Settlements Based on Complex Adaptive System (CAS) Theory: Evidence from Shawan in Guangfu Region, China', *Heritage Science*, 12.1 (2024), 173 https://doi.org/10.1186/s40494-024-01286-2

[2] John Virdin and others, 'Fishing for Subsistence Constitutes a Livelihood Safety Net for Populations Dependent on Aquatic Foods around the World', *Nature Food*, 4.10 (2023), 874–85 https://doi.org/10.1038/s43016-023-00844-4

social function reflects the relationship between land, community welfare, and social stability, while its economic function concerns its value as a productive resource and an instrument of investment.[3] Economic development and population growth have increased competition over land, making the regulation of ownership, control, utilization, and transfer increasingly important. These developments require a legal framework that protects legitimate interests while ensuring that land administration operates consistently and transparently.[4]

The Indonesian Constitution establishes the foundation for state responsibility in land governance. Article 33 paragraph (3) of the 1945 Constitution recognizes state control over land, water, and natural resources for the greatest prosperity of the people. Law Number 5 of 1960 concerning Basic Agrarian Principles further establishes the legal framework for regulating land rights and their administration. Article 19 paragraph (1) requires the government to organize land registration throughout Indonesia to ensure legal certainty. Paragraph (2) identifies essential registration activities, including land measurement, mapping, recording, registration of rights and their transfers, and the issuance of documents that serve as strong evidence of land rights. These provisions demonstrate that land registration constitutes an essential instrument for implementing constitutional commitments concerning legal certainty and public welfare.[5]

Land registration provides legal information concerning the identity of right holders, the legal status of land, its location, boundaries, and area.[6] This information enables individuals to establish their legal interests and allows prospective purchasers, creditors, and other interested parties to assess the legal conditions governing particular parcels.[7] Effective registration also supports administrative accountability by requiring public institutions to maintain reliable land records. Nevertheless, the issuance of certificates does not automatically eliminate competing claims or resolve every legal dispute. The effectiveness of registration depends on the accuracy of administrative records, the validity of underlying rights, and the consistency of decisions issued by competent

[3] Terje Holsen and others, 'Rethinking Land Readjustment: Fit-for-Purpose Rules for Joint Use in Real Estate Development', *Land Use Policy*, 172 (2027), 108278 https://doi.org/10.1016/j.landusepol.2026.108278
[4] Kasper Hoffmann and others, 'Everyday Property-Making: Negotiating Land Rights, Precarity and Public Authority in Urban Congo', *Land Use Policy*, 158 (2025), 107734 https://doi.org/10.1016/j.landusepol.2025.107734
[5] Sholahuddin Al-Fatih and Bekov Ikhtiyor Rustamovich, 'Proposing Green Constitution, Is It Necessary?', *Journal of Law, Environmental and Justice*, 4.1 (2026), 371–403 https://doi.org/10.62264/jlej.v4i1.261
[6] Felicitas Sommer and Walter Timo de Vries, 'Values and Representations in Land Registers and Their Legal, Technical, Social Effects on Land Rights as an Administrative Artefact', *Land Use Policy*, 135 (2023), 106946 https://doi.org/10.1016/j.landusepol.2023.106946
[7] Gabriela Debrunner and David Kaufmann, 'Land Valuation in Densifying Cities: The Negotiation Process between Institutional Landowners and Municipal Planning Authorities', *Land Use Policy*, 132 (2023), 106813 https://doi.org/10.1016/j.landusepol.2023.106813

authorities. Legal certainty therefore requires both reliable documentation and administrative procedures that provide predictable legal consequences.[8]

Indonesia has undertaken extensive efforts to expand land registration. Data reported by the Ministry of Agrarian Affairs and Spatial Planning and the National Land Agency indicate that Indonesia identified approximately 126 million land parcels within areas designated for non-forest land use.[9] Between 1961 and 2016, the government registered and certified approximately 46 million parcels, representing 36.5 percent of the estimated total. In 2017, the government accelerated registration through the Complete Systematic Land Registration program, commonly known as PTSL.[10] According to the research data, the number of registered parcels reached approximately 119.79 million in 2024, equivalent to 98.7 percent of the reported registration target. These figures demonstrate substantial administrative progress and reflect the government's commitment to expanding legal documentation of land rights.[11]

However, increased registration coverage has not eliminated land disputes. The Directorate General responsible for handling land disputes and conflicts recorded 22,075 land cases during the period from 2017 to 2022, according to the data presented in this study. These cases involved administrative, civil, and potentially criminal legal issues. The continuing occurrence of disputes reveals an important distinction between registration coverage and substantive legal certainty. Although the government may register a large proportion of land parcels, disputes can persist when administrative decisions involve unclear legal relationships, competing claims, or inconsistent interpretations of land legislation. Accordingly, the success of land registration should not depend exclusively on the number of certificates issued but should also reflect the ability of the legal system to prevent disputes and resolve competing interests fairly.[12]

The institutional responsibilities of the Ministry of Agrarian Affairs and Spatial Planning and the National Land Agency further demonstrate the importance of

[8] Fahimeh Abedi, Abbas Rajabifard and Davood Shojaei, 'Enhancing Access to Justice for Land and Property Disputes through Online Dispute Resolution and Artificial Intelligence', *Computer Law & Security Review*, 59 (2025), 106194 https://doi.org/10.1016/j.clsr.2025.106194

[9] Rebecca Meckelburg and Agung Wardana, 'The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia', *Land Use Policy*, 137 (2024), 107017 https://doi.org/10.1016/j.landusepol.2023.107017

[10] Opeyemi Ajayi and others, 'Stakeholders' Perspectives on the Adoption of Blockchain Technology for Land Registration Systems: A Case Study from Lagos, Nigeria', *Blockchain: Research and Applications*, 2026, 100577 https://doi.org/10.1016/j.bcra.2026.100577

[11] Heather Huntington and Jennifer Lisher, 'Reviewing the Evidence on Land Tenure and Governance: An Overview of the Impact Evaluation Literature and Lessons Learned', *Land Use Policy*, 159 (2025), 107774 https://doi.org/10.1016/j.landusepol.2025.107774

[12] Nilesh Shinde and others, 'Land Registration and Conflict Reduction: Evidence from the Brazilian Amazon', *Journal of Environmental Economics and Management*, 141 (2027), 103432 https://doi.org/10.1016/j.jeem.2026.103432

consistent land administration. Presidential Regulation Number 176 of 2024 concerning the Ministry of Agrarian Affairs and Spatial Planning and Presidential Regulation Number 177 of 2024 concerning the National Land Agency provide the institutional framework for carrying out government responsibilities in the land sector. These responsibilities include the formulation and implementation of policies concerning the determination and registration of land rights, as well as the prevention and resolution of land disputes. The relationship between these functions is particularly important because administrative decisions concerning land rights may themselves become the subject of litigation. Government institutions must therefore balance the efficient delivery of registration services with the obligation to protect legitimate legal interests.[13]

Land disputes arise from several interconnected legal and administrative circumstances. The research material identifies disputes concerning land ownership and possession, the determination and registration of land rights, land boundaries, land acquisition, land redistribution, former private estates, customary land, abandoned land, and the implementation of judicial decisions.[14] Among these categories, disputes concerning the determination and registration of land rights present significant challenges because they directly involve the legality of administrative decisions. When interested parties challenge the procedures or legal grounds underlying a registration decision, Land Offices and other land administration institutions may become defendants in administrative or civil proceedings. Such disputes demonstrate that administrative certainty requires more than compliance with documentary requirements. Authorities must also establish a clear legal basis for determining the status of land and the rights of competing applicants.[15]

A particularly complex issue arises when individuals or legal entities apply for new land rights over parcels whose previous tenure has expired. Indonesian agrarian law recognizes land rights with different legal characteristics, including the Right to Cultivate, the Right to Build, and the Right to Use.[16] Certain rights operate within legally prescribed periods and may expire when their duration ends. However, the expiration of a registered land right can create further questions concerning the status of the land, the position of the former right holder, and the authority of the government to grant new rights to another party. These

[13] He Gao and others, '"Fit-for-Purpose" Spatial Justice: Diffusion of European Land Consolidation and Global Reflection', *Land Use Policy*, 170 (2026), 108169 https://doi.org/10.1016/j.landusepol.2026.108169
[14] Anis Mashdurohatun and Abdul Hanis Embong, 'Legal Protection of Coastal Community Land Tenure Rights', *Contrarius*, 1.2 (2025), 89–108 https://doi.org/10.53955/contrarius.v1i2.209
[15] Anita Kukulska-Kozieł and others, 'Challenges of Change: Insights into Land Use Transformations and Social Conflict in Highland Regions', *Land Use Policy*, 166 (2026), 107999 https://doi.org/10.1016/j.landusepol.2026.107999
[16] Laksmana Alluvian, Gibran Abdul Jabar Maulani and Gavin Adiva Ramudia, 'Legal Protection for Holders of Ownership Right Certificates Against Non-Procedural Land Execution', *Notaire*, 8.3 (2025), 391–412 https://doi.org/10.20473/ntr.v8i3.74245

questions become more difficult when former right holders continue to occupy the land, maintain buildings or improvements, or assert unresolved civil interests. The central legal problem concerns whether the expiration of a land right necessarily terminates every legal interest associated with the land or whether claims may survive under specific legal conditions.[17]

The distinction between the termination of land rights and the possible continuation of civil claims has important consequences for administrative decision making. The expiration of tenure may terminate the legal authority previously granted to a right holder, but it does not necessarily resolve every dispute concerning physical possession, improvements, compensation, or other legally recognized interests. Conversely, continued occupation cannot independently establish an unrestricted entitlement to obtain new land rights or prevent the government from exercising its lawful administrative authority. Land administration institutions must therefore distinguish the legal consequences of tenure expiration from the factual circumstances surrounding possession and the legal basis of subsequent claims. Without clear standards, administrative authorities may interpret similar circumstances differently, creating uncertainty for former right holders and new applicants.[18]

The dispute involving PT Way Halim and PT Hasil Karya Kita Bersama in Bandar Lampung illustrates this problem. PT Way Halim previously held a Right to Build certificate whose validity period had expired. PT Hasil Karya Kita Bersama subsequently applied for a Right to Build over land formerly covered by that certificate, relying on the transfer of cultivation interests obtained from members of the community. PT Way Halim objected to the application on the grounds that the parties had neither resolved nor compensated its alleged remaining civil interests. Following the objection, the relevant Land Office suspended the application process pending settlement of the disputed claims. This case demonstrates how disagreement concerning the legal position of a former right holder can prevent the completion of a new land rights application.[19]

The dispute raises several questions that extend beyond the interests of the parties involved. *First,* it concerns the legal consequences of tenure expiration and whether the former right holder retains interests that require administrative consideration.[20] *Second,* it raises questions about the legal basis for suspending a

[17] Chi-Mao Wang, 'Performing Rurality and Urbanity: Language Performations, Materials and Land-Use Politics', *Journal of Rural Studies*, 92 (2022), 443–50 https://doi.org/10.1016/j.jrurstud.2022.03.016
[18] Merlijn van Hulst and others, 'Discourse, Framing and Narrative: Three Ways of Doing Critical, Interpretive Policy Analysis', *Critical Policy Studies*, 19.1 (2025), 74–96 https://doi.org/10.1080/19460171.2024.2326936
[19] Meckelburg and Wardana.
[20] Heng Luo and others, 'Impacts of Conservation Easements on Perceived Land Tenure Security', *Ecological Economics*, 242 (2026), 108910 https://doi.org/10.1016/j.ecolecon.2025.108910

new application when another party asserts unresolved civil claims.[21] *Third*, it concerns the division of authority between Land Offices, which administer land rights, and courts, which resolve disputes requiring judicial determination. These issues become particularly significant when administrative institutions suspend applications without sufficiently clear criteria concerning the validity of objections, the evidence required, or the conditions for resuming registration procedures. Such uncertainty may prolong disputes and undermine confidence in the land administration system.[22]

Existing legal scholarship on land registration provides important conceptual foundations for understanding these problems. Research concerning legal certainty generally emphasizes the significance of reliable registration records, valid certificates, and consistent administrative procedures. Studies addressing legal protection examine the relationship between state authority, ownership interests, and the remedies available to affected parties. Other approaches focus on administrative disputes and the role of judicial decisions in resolving competing claims. These perspectives contribute to understanding land registration as both a legal and administrative process. However, the specific relationship between expired tenure, surviving civil interests, and the administrative requirement for granting new rights requires more focused examination.[23]

Existing scholarship on land registration has primarily examined legal certainty, the protection of land rights, and the resolution of disputes arising from administrative decisions.[24] However, these discussions have not sufficiently addressed the legal and administrative consequences of granting new land rights over parcels whose previous tenure has expired. The legal position of former right holders becomes particularly problematic when they continue to assert civil interests while other parties seek new rights over the same land.[25] Although land registration regulations establish general procedures for determining and recording land rights, they do not always provide clear guidance for resolving competing claims following tenure expiration. This uncertainty creates difficulties for Land Offices in determining whether they should continue processing applications, suspend administrative proceedings, or require the parties to resolve their disputes through judicial mechanisms. The relationship between expired

[21] Lego Karjoko, Nabila Rahma Safitri and Ravi Danendra, 'Unprotected Land Ownership Rights in Corporate Land Acquisition', *Contrarius*, 2.1 (2026), 37–53 https://doi.org/10.53955/contrarius.v2i1.261
[22] Benjamin C.R. Flower and others, 'Securing Tenure for Conflict-Affected Populations: A Case Study of Land Titling and Fit-for-Purpose Land Administration in Post-Conflict Sri Lanka', *Land Use Policy*, 125 (2023), 106438 https://doi.org/10.1016/j.landusepol.2022.106438
[23] Anshu Yadav, 'Land Rights in India: Contemporary Legal and Policy Challenges', *Journal of Land and Rural Studies*, 14.1 (2026), 7–29 https://doi.org/10.1177/23210249251381102
[24] Volkan Çağdaş and others, 'Determination of the Property Boundary – A Review of Selected Civil Law Jurisdictions', *Land Use Policy*, 124 (2023), 106445 https://doi.org/10.1016/j.landusepol.2022.106445
[25] Meckelburg and Wardana.

land rights, remaining civil interests, and administrative authority therefore requires closer legal examination.[26]

A comprehensive regulatory framework must distinguish the legal status of land following tenure expiration, the nature and enforceability of any remaining civil claims, and the authority of Land Offices to process applications submitted by new parties.[27] These distinctions are essential because the expiration of a land right does not necessarily resolve every legal issue concerning possession, compensation, or other interests associated with the property. At the same time, the existence of an objection should not automatically prevent administrative authorities from exercising their statutory responsibilities. Clear legal standards would enable Land Offices to assess competing claims according to their legal basis, determine the appropriate procedures for resolving disputes, and issue consistent administrative decisions. Integrating these considerations into land registration regulations would strengthen the relationship between legal certainty, effective protection of legitimate interests, and administrative efficiency.[28]

The continued occurrence of land disputes despite the expansion of national land registration demonstrates the practical importance of addressing these regulatory weaknesses. Unclear administrative procedures can prolong the determination of land rights, increase litigation costs, and create uncertainty for both former right holders and new applicants. Such conditions may also discourage the productive utilization of land and weaken public confidence in land administration institutions. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency should therefore establish more precise regulations governing the legal consequences of tenure expiration, the examination of competing civil claims, and the procedures for granting new land rights. Consistent regulatory standards would help prevent unnecessary administrative delays, protect legally recognized interests, and ensure that land registration decisions reflect the principles of legal certainty, fairness, and effective public administration.[29] This study addresses three research questions. *First,* to what extent do existing regulations governing the determination and registration of rights over land with expired tenure provide legal certainty, fairness, and

[26] Arditya Wicaksono and others, 'Actor Collaboration in the Implementation of Business Licensing Integrated with the Land Use Framework: Indonesian Case Study', *Urban Governance*, 6.1 (2026), 45–57 https://doi.org/10.1016/j.ugj.2025.10.003

[27] Chairul Fahmi (Acehnese), 'The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia', *AlterNative: An International Journal of Indigenous Peoples*, 20.1 (2024), 157–66 https://doi.org/10.1177/11771801241235261

[28] Hariyanto Hariyanto, Mabarroh Azizah and Nurhidayatuloh Nurhidayatuloh, 'Does the Government's Regulations in Land Ownership Empower the Protection of Human Rights?', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 391–421 https://doi.org/10.53955/jhcls.v4i2.222

[29] Barikisa Owusu Ansah and others, 'A Systematic Review of the Institutional Success Factors for Blockchain-Based Land Administration', *Land Use Policy*, 125 (2023), 106473 https://doi.org/10.1016/j.landusepol.2022.106473

practical effectiveness. *Second*, what legal status and civil interests, including any legally recognized priority or compensation claims, may former right holders retain when another party applies for rights over the same land. *Third*, how should Indonesia reconstruct the regulatory framework governing the determination and registration of land rights following tenure expiration to ensure consistent administrative decisions and effective legal protection.[30]

Research Method

This study employs normative legal research supported by empirical findings to examine the regulation, legal protection, and legal certainty of land rights registration following the expiration of previous land tenure in Indonesia.[31] It applies statutory, conceptual, and case approaches. The statutory approach examines Law Number 5 of 1960 concerning Basic Agrarian Principles, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation Number 18 of 2021, and relevant implementing regulations. The conceptual approach analyzes legal certainty, legal protection, administrative authority, and the distinction between the expiration of land rights and the possible continuation of civil claims. Meanwhile, the case approach examines judicial decisions and administrative disputes concerning applications for new land rights over land whose previous tenure has expired. The research materials consist of primary legal materials, including legislation and judicial decisions; secondary legal materials, including academic literature and institutional documents; and empirical data obtained from thirteen Land Offices to identify differences in administrative interpretations and practices in handling applications involving former right holders. Data collection is conducted through document analysis, field observations, and interviews. The data are analyzed qualitatively through three stages. First, the study identifies the legal consequences of tenure expiration and examines the statutory requirements for granting and registering new land rights. Second, it compares the applicable legal provisions with judicial interpretations and Land Office administrative practices, particularly in assessing competing claims, compensation demands, and objections submitted by former right holders. Third, it evaluates discrepancies between legal norms and their implementation based on the principles of legal certainty, legal protection, fairness, and administrative accountability. The analysis also examines the limits of administrative authority in suspending or proceeding with land registration by distinguishing the termination of land rights from any remaining civil interests. Based on these findings, the study formulates recommendations to improve

[30] Abdallah Kalaf AL-Raggad and Mishael Al-Raggad, 'Analyzing Trends: A Bibliometric Study of Administrative Law and Forensic Accounting in the Digital Age', *Heliyon*, 10.18 (2024), e37462 https://doi.org/10.1016/j.heliyon.2024.e37462

[31] Abdul Kadir Jaelani and others, 'Vulnerability and Legal Protection of Indonesian Women Migrant Workers', *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 18.2 (2025), 197–228 https://doi.org/10.14421/ahwal.2025.18203

regulatory clarity, ensure consistency in administrative decisions, and strengthen legal protection in Indonesia's land registration system.[32]

Results and Discussion

Legal Framework and Regulatory Uncertainty in the Registration of Expired Land Rights

Indonesia has developed an extensive legal framework to regulate land rights, strengthen administrative accountability, and provide legal certainty through land registration.[33] Nevertheless, disputes continue to arise when individuals or legal entities apply for new rights over land whose previous tenure has expired. These disputes reveal a fundamental distinction between the termination of registered land rights, the legal status of the underlying land, and the possible continuation of separate civil interests. Although agrarian legislation regulates the establishment, extension, renewal, and termination of land rights, administrative authorities may encounter competing claims that complicate the granting of new rights. The principal legal concern therefore extends beyond the existence of registration regulations to their capacity to provide consistent administrative procedures and effective protection for interested parties.[34]

Law Number 5 of 1960 concerning Basic Agrarian Principles establishes the foundation of Indonesia's national land law. Article 2 recognizes the state's authority to regulate land allocation, utilization, and legal relationships, while Article 16 identifies the principal categories of land rights. Article 19 requires the government to administer land registration to ensure legal certainty. Government Regulation Number 24 of 1997 further regulates the collection, verification, recording, and maintenance of physical and juridical land information. Government Regulation Number 18 of 2021 develops the regulatory framework governing Management Rights, land rights, strata title units, and land registration. These instruments provide the legal basis for determining land status and administering applications for rights over land previously subject to expired tenure.[35]

Recent administrative achievements demonstrate substantial progress in implementing these responsibilities. According to the Ministry of Agrarian Affairs and Spatial Planning and the National Land Agency, Indonesia had registered

[32] Lego Karjoko, Abdul Kadir Jaelani and Ravi Danendra, 'Legal Inconsistency on the Right to Build: Investment, Agrarian Rights, and Constitution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.2 (2025), 324–46 https://doi.org/10.53955/jsderi.v3i2.106

[33] Begüm İsbİr, 'Legal Dılemma Regardıng Mobbıng In Publıc Law : Is It Admınıstratıon Or Dıscrımınatıon ?', *Cuestiones & Fisioterapia*, 54.3 (2025), 871–82 https://doi.org/https://doi.org/10.48047/sh0nns75

[34] Peter Parycek, Verena Schmid and Anna-Sophie Novak, 'Artificial Intelligence (AI) and Automation in Administrative Procedures: Potentials, Limitations, and Framework Conditions', *Journal of the Knowledge Economy*, 15.2 (2023), 8390–8415 https://doi.org/10.1007/s13132-023-01433-3

[35] Masresha Belete Asnakew and others, 'Land Rights, Bases of Informal Settlements and Bogus Contract Documents as a Means of Urban Fringe Legal Land Transactions in Ethiopia', *Cities*, 149 (2024), 104954 https://doi.org/10.1016/j.cities.2024.104954

approximately 129.9 million land parcels by October 2026, including 97.2 million parcels that had obtained land certificates. The government also reported issuing approximately 8.87 million electronic certificates between October 2024 and October 2026, bringing cumulative electronic certificate issuance to approximately 9.93 million. These developments reflect the expansion of the Complete Systematic Land Registration program and the modernization of land administration. Nevertheless, registration coverage and certificate issuance measure different administrative achievements. Neither indicator independently establishes the validity of every registered right or demonstrates that all competing legal interests have been resolved.[36]

The persistence of land disputes illustrates this limitation. The Ministry recorded 5,652 land cases during the 2024 to 2025 reporting period, including 2,135 resolved cases and 3,517 cases undergoing further examination. During the 2025 to 2026 reporting period, the Ministry recorded 4,102 incoming cases, of which 883 had been resolved and 3,219 remained under examination. A further institutional report published in November 2026 indicated that the Ministry had resolved 35,294 land cases from more than 58,000 cases recorded over approximately twelve years. These statistics demonstrate the continuing administrative burden associated with land disputes despite the expansion of registration services. However, the figures cover different reporting periods and categories of cases. They do not establish the specific number of disputes involving expired land tenure and should not be combined to calculate a single annual incidence rate.[37]

The distinction between registration performance and substantive legal certainty becomes particularly important when examining land whose previous tenure has expired. Government Regulation Number 18 of 2021 recognizes different legal arrangements for the Right to Cultivate, known as Hak Guna Usaha, the Right to Build, known as Hak Guna Bangunan, and the Right of Use, known as Hak Pakai. Each right has a particular legal purpose, duration, and relationship with the underlying land. Consequently, administrative authorities cannot apply identical procedures to every parcel following tenure expiration. They must first identify the type of right, the legal status of the land, and the applicable requirements governing extension, renewal, or subsequent allocation.[38]

Cultivation Rights generally authorizes eligible holders to conduct agricultural and related productive activities. Government Regulation Number 18 of 2021

[36] Evangelia Balla and Jaap Zevenbergen, 'Digital Development Control in European Planning Systems: A Comparative Perspective from Greece and The Netherlands', *Land*, 15.11 (2026), 2150 https://doi.org/10.3390/land15112150

[37] Abdul-Salam Ibrahim and others, 'Resolving Land Conflicts through Alternative Dispute Resolution: Exploring the Motivations and Challenges in Ghana', *Land Use Policy*, 120 (2022), 106272 https://doi.org/10.1016/j.landusepol.2022.106272

[38] Chrysoula Pagouni and others, 'Transitional and Post-Mining Land Uses: A Global Review of Regulatory Frameworks, Decision-Making Criteria, and Methods', *Land*, 13.7 (2024), 1051 https://doi.org/10.3390/land13071051

provides an initial period of up to 35 years, an extension of up to 25 years, and a renewal of up to 35 years. The regulation recognizes that Cultivation Rights may exist over land directly controlled by the state or land under Management Rights. Following the completion of the relevant tenure periods, the land returns to the applicable underlying legal status. Where land returns to direct state control, the Minister may determine its subsequent allocation according to statutory requirements and may consider the former holder's priority under prescribed conditions. Such priority does not automatically establish an unconditional right to obtain a new grant.[39]

Building rights presents different legal consequences because it authorizes eligible holders to establish and own buildings on land that they do not necessarily own. Government Regulation Number 18 of 2021 generally provides an initial period of up to 30 years, an extension of up to 20 years, and a renewal of up to 30 years for Building rights over state land or land under Management Rights. The regulation also recognizes Building rights over privately owned land through the applicable legal arrangement. Consequently, expiration may return the land to direct state control, leave it under Management Rights, or terminate the relevant arrangement over privately owned land. These differences directly influence the authority responsible for considering subsequent applications.[40]

Article 41 of Government Regulation Number 18 of 2021 provides an important procedural distinction. A holder may apply for an extension within the applicable period before the right expires, while an application for renewal may be submitted within two years following expiration. The regulation also requires registration of extensions and renewals. These provisions demonstrate that the expiration of the original tenure does not necessarily eliminate every legally available administrative procedure for the former holder. Nevertheless, the availability of renewal remains subject to statutory requirements and does not automatically prevent the government from examining competing interests according to the applicable legal framework.[41]

Right of Use also requires differentiated legal treatment. Government Regulation Number 18 of 2021 recognizes rights granted for specified periods and rights that continue while the land serves an authorized purpose. Rights subject to specified periods may generally receive an initial term of up to 30 years, an extension of up to 20 years, and a renewal of up to 30 years, depending on the underlying land and applicable legal conditions. Other forms of Right of Use

[39] Sommer and de Vries.
[40] Abdul Kadir Jaelani, Anila Rabbani and Muhammad Jihadul Hayat, 'Land Reform Policy in Determining Abandoned Land for Halal Tourism Destination Management Based on Fiqh Siyasah', *El-Mashlahah*, 14.1 (2024), 211–38 https://doi.org/10.23971/el-mashlahah.v14i1.8051
[41] Julia Trautendorfer, Lisa Hohensinn and Dennis Hilgers, 'From de Jure to de Facto Transparency: Analyzing the Compliance Gap in Light of Freedom of Information Laws', *Regulation & Governance*, 19.1 (2025), 253–83 https://doi.org/10.1111/rego.12615

follow different arrangements. These distinctions demonstrate that administrative authorities must examine the specific legal characteristics of each right before determining whether the land may become the object of a new application.[42]

The legal status of the underlying land constitutes a separate consideration. Indonesian agrarian law distinguishes land directly controlled by the state, land under Management Rights, privately owned land, and land associated with legally recognized customary interests. Each category establishes different legal relationships and administrative consequences. The expiration of Building rights over state land, for example, cannot automatically receive the same treatment as the expiration of Building rights over privately owned land. Likewise, the continuation of Management Rights may affect the authority and legal arrangements required for granting subsequent rights. Land Offices must therefore examine the origin of the previous right rather than assume that every expired certificate creates land available for unrestricted allocation.[43]

The distinction between registered land rights and independent civil interests further complicates administrative decisions. Former right holders may continue to occupy land, maintain buildings, or assert claims concerning compensation and contractual obligations after their registered tenure expires. However, physical possession does not automatically establish a continuing registered right, and the expiration of tenure does not necessarily resolve every separate legal claim. The principle of horizontal separation in Indonesian land law also requires attention to the legal treatment of buildings and other objects situated on land. Consequently, authorities must examine whether a claimed interest arises from a valid agreement, applicable legislation, or another legally recognized basis.[44]

Judicial disputes provide practical illustrations of these issues. The dispute involving PT Way Halim and PT Hasil Karya Kita Bersama concerned an application for Building rights over land previously held by PT Way Halim. Following the expiration of the earlier tenure, PT Hasil Karya Kita Bersama sought rights over the relevant parcel. PT Way Halim objected on the grounds that its alleged remaining civil interests had not been resolved or compensated. The Land Office subsequently suspended the application pending settlement of the competing claims.[45] This dispute illustrates how disagreement concerning the legal position of a former right holder may interrupt administrative proceedings even

[42] Diana Suhardiman and others, 'Dispossession by Archive: Contemporary Land Grabbing through Colonial Land Deeds in Indonesia', *The Journal of Peasant Studies*, 53.3 (2026), 581–602 https://doi.org/10.1080/03066150.2025.2517711

[43] Srishti Gaur and Rajendra Singh, 'A Comprehensive Review on Land Use/Land Cover (LULC) Change Modeling for Urban Development: Current Status and Future Prospects', *Sustainability*, 15.2 (2023), 903 https://doi.org/10.3390/su15020903

[44] Sommer and de Vries.

[45] Lego Karjoko, Iswantoro and Makhabbat Ramazanova, '"Good Faith" in Land Transaction: A Comparative Analysis of the USA and Netherlands Law', *Journal of Sustainable Development and Regulatory Issues*, 2.3 (2024), 185–208 https://doi.org/10.53955/jsderi.v2i3.49

after the previous registered right has expired. The dispute also raises questions concerning the legal authority to suspend applications. An objection based on an existing registered right differs from a claim concerning compensation, possession, or contractual obligations. Each issue requires a distinct legal examination. Administrative authorities must determine whether the objection concerns the legal status of the land, the applicant's eligibility, or a separate civil dispute that requires judicial determination. Without clear criteria, Land Offices may suspend applications without establishing whether the objection legally prevents the granting of new rights. Such practices may create uncertainty for applicants and former right holders alike.[46]

The dispute examined in District Court Decision Number 282/Pdt.G/2018/PN.Smg provides another example of the relationship between expired tenure and claims concerning buildings or plants situated on the land. Its relevance lies in demonstrating that disputes over former land rights may involve interests beyond the registration status of the parcel. However, the legal consequences of such claims depend on the specific facts and applicable legal provisions. Authorities should therefore avoid treating continued possession or the existence of improvements as automatic evidence of a surviving land right or an unconditional entitlement to compensation.[47] Administrative examination plays a central role in preventing these disputes from producing unlawful registration decisions. Applicants must establish their legal capacity and provide documents supporting the requested right. Land Offices must examine the history of the parcel, its previous registration, the legal basis of the application, and relevant claims from interested parties. Measurement and mapping activities identify the location, boundaries, and area of the land and help prevent overlapping registrations. Land Examination Committees also assess the physical and juridical conditions of the parcel before competent authorities determine whether the application satisfies the applicable requirements.[48]

Nevertheless, administrative verification must remain within the limits of statutory authority. Land Offices possess responsibility for examining applications and administering land rights, but they do not automatically possess jurisdiction to resolve every substantive civil dispute. A disagreement concerning contractual compensation may require judicial determination, while an administrative defect may fall within the authority of the competent land administration institution. This distinction is essential because the suspension of an application should follow

[46] Mahmoud Fayyad and Abdel Raouf Al-Sinnawi, 'Challenges of Sporadic Land Registration in Palestine', *Land Use Policy*, 131 (2023), 106723 https://doi.org/10.1016/j.landusepol.2023.106723

[47] Didik Sukriono and others, 'Local Wisdom as Legal Dispute Settlement: How Indonesia's Communities Acknowledge Alternative Dispute Resolution?', *Legality : Jurnal Ilmiah Hukum*, 33.1 (2025), 261–85 https://doi.org/10.22219/ljih.v33i1.39958

[48] Mekonnen Tesfaye Metaferia and others, 'Fit-for-Purpose Land Administration and the Framework for Effective Land Administration: Synthesis of Contemporary Experiences', *Land*, 12.1 (2022), 58 https://doi.org/10.3390/land12010058

a legally identifiable reason rather than an assumption that every objection prevents further administrative action.[49]

Recent developments in electronic land registration reinforce the importance of reliable legal information. Ministerial Regulation Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities provides the framework for electronic registration documents and certificates.[50] Electronic systems can improve access to records, facilitate verification, and strengthen administrative efficiency. However, technological modernization cannot independently resolve uncertainty concerning the underlying legal status of land. A digital certificate remains dependent on the accuracy of the physical and juridical information supporting its issuance. Legal certainty therefore requires both reliable technology and consistent interpretation of substantive land law. The thirteen Land Offices offers a basis for examining differences in administrative practice, although the available material does not identify the number of offices adopting particular procedures. National statistics and individual disputes cannot substitute for verified findings from those offices. A systematic empirical assessment should distinguish applications that proceed after verification, applications requiring additional documentation, and applications suspended because of legally relevant competing claims. It should also examine the legal provisions and administrative reasons supporting each decision. These distinctions would clarify whether variations arise from regulatory ambiguity, differences in documentary evidence, or the circumstances of individual cases.[51]

The combined legal and administrative evidence demonstrates that Indonesia has substantially expanded land registration while continuing to face challenges concerning the consistent application of land rights regulations. The principal difficulty does not arise solely from the absence of provisions governing the duration or termination of Hak Guna Usaha, Hak Guna Bangunan, and Hak Pakai. Rather, it concerns the relationship between tenure expiration, the status of the underlying land, the possible continuation of independent civil interests, and the authority of Land Offices to examine competing applications. Where administrative institutions fail to distinguish these matters, they may adopt inconsistent procedures that prolong disputes and weaken legal certainty. A more coherent regulatory approach should therefore establish clear standards for determining land status after tenure expiration, verifying the legal basis of competing claims, and identifying the circumstances in which administrative

[49] Jonathan Bayuo, Arkers Kwan Ching Wong and Frances Kam Yuet Wong, 'Legal Precedents and Nursing: Implications of Four Key Court Findings for the Future of Nursing Jurisprudence in the United States', *Nursing Outlook*, 73.3 (2025), 102427 https://doi.org/10.1016/j.outlook.2025.102427

[50] Aslan Noor and others, 'Digital Management of Legal Records: Analyzing User Acceptance of Digital Land Management', *Records Management Journal*, 35.3 (2025), 310–25 https://doi.org/10.1108/RMJ-11-2024-0051

[51] Bo Nørregaard Jørgensen, Saraswathy Shamini Gunasekaran and Zheng Grace Ma, 'Impact of EU Laws on AI Adoption in Smart Grids: A Review of Regulatory Barriers, Technological Challenges, and Stakeholder Benefits', *Energies*, 18.12 (2025), 3002 https://doi.org/10.3390/en18123002

proceedings may continue or require suspension. Such standards should also clarify the division of authority between Land Offices and courts. By distinguishing the termination of registered land rights from physical possession and independent civil interests, Indonesia can strengthen administrative consistency, protect legitimate legal claims, and reduce unnecessary delays in granting and registering new land rights.[52]

Legal Protection of Former Land Right Holders and the Legal Consequences of Tenure Expiration

The expiration of land tenure creates significant legal consequences for former right holders, particularly when other parties seek new rights over the same land.[53] Indonesian agrarian law recognizes that Hak Guna Usaha, Hak Guna Bangunan, and certain forms of Hak Pakai operate within prescribed periods. Once these rights expire without an effective extension or renewal, the previous holders lose the legal authority attached to their registered tenure.[54] However, the expiration of a land right does not necessarily extinguish every civil interest associated with the property. Former holders may continue to assert claims concerning buildings, crops, contractual obligations, or compensation, provided that such claims have a valid legal basis. The central legal issue therefore concerns the distinction between the termination of registered land rights, the continuation of physical possession, and the enforceability of independent civil claims.[55]

The significance of this issue becomes evident from national land dispute statistics. Between 2017 and 2022, the Directorate General responsible for handling land disputes and conflicts recorded 22,075 disputes and court cases, comprising 8,775 administrative disputes and 13,300 court cases. Disputes concerning land possession and ownership accounted for 4,554 administrative disputes and 4,544 court cases, representing 9,098 cases in total. Disputes concerning land measurement and mapping reached 5,082 cases, while disputes concerning the determination and registration of land rights accounted for 2,001 administrative disputes and 2,656 court cases. The latter category represented approximately 21.1 percent of all recorded disputes and cases. These figures demonstrate that the determination and registration of land rights constitute a substantial source of legal

[52] Mohammad Rifat Ahmmad Rashid and others, 'Enhancing Land Management Policy in Bangladesh: A Blockchain-Based Framework for Transparent and Efficient Land Management', *Land Use Policy*, 150 (2025), 107436 https://doi.org/10.1016/j.landusepol.2024.107436

[53] Theresia Anita Christiani and others, 'Indonesia's Palm Oil Plantation Regulations for Promoting Community Protection and Justice', *Contrarius*, 2.3 (2026), 247–74 https://doi.org/10.53955/contrarius.v2i3.296

[54] Abdul Wahid, I. Gusti Ayu Ketut Rachmi Handayani and Lego Karjoko, 'Philosophical and Constitutional Critique of the Negative Publication System in Indonesian Land Registration', *Diponegoro Law Review*, 11.1 (2026), 1–23 https://doi.org/10.14710/dilrev.11.1.2026.1-23

[55] Jakub Wyczik, 'Ownership in the 21st Century: Property Law of Digital Assets', *Information & Communications Technology Law*, 34.2 (2025), 187–206 https://doi.org/10.1080/13600834.2024.2408917

conflict, although they do not separately identify disputes involving expired tenure.[56]

The relationship between these categories reveals an important structural problem in Indonesian land administration. Disputes concerning possession and ownership frequently involve disagreements about the legal basis of land control, while disputes concerning registration arise when administrative decisions recognize or reject competing claims. Measurement disputes may further complicate these conflicts when parties disagree about the location or boundaries of the disputed land. Together, these three categories accounted for approximately 85.3 percent of the recorded cases. This distribution suggests that legal certainty depends not only on the issuance of land certificates but also on the ability of administrative institutions and courts to determine the relationship between legal entitlement, physical possession, and the validity of supporting documents.[57]

Law Number 5 of 1960 concerning Basic Agrarian Principles establishes the principal framework governing land rights in Indonesia. Government Regulation Number 18 of 2021 further regulates the duration, extension, renewal, and termination of Hak Guna Usaha, Hak Guna Bangunan, and Hak Pakai. These rights differ in their purposes, eligible holders, and relationships with the underlying land. Consequently, their expiration may produce different legal consequences depending on whether the land falls under direct state control, Management Rights, or private ownership. Authorities must examine these distinctions before determining whether a former holder retains a legally recognized interest or whether another party may obtain new rights.[58]

Cultivation Rights generally authorizes eligible holders to undertake agricultural and related productive activities. Its expiration terminates the legal authority associated with the previous registered right unless the holder obtains an effective extension or renewal under the applicable requirements. Nevertheless, disputes may continue concerning plantation facilities, crops, contractual arrangements, and the occupation of the land. Building rights raises similar questions because its holders may have constructed buildings or other improvements during the period of lawful tenure. Right of Use also requires differentiated treatment because its legal consequences depend on the category of right and the underlying land status. These differences demonstrate that the

[56] Oemar Moechthar and others, 'Reconsidering Priority Rights in the Reacquisition of Land Rules in Indonesia', *BHUMI: Jurnal Agraria Dan Pertanahan*, 11.2 (2025), 162–85 https://doi.org/10.31292/bhumi.v11i2.833

[57] Martin Roestamy and others, 'A Review of the Reliability of Land Bank Institution in Indonesia for Effective Land Management of Public Interest', *Land Use Policy*, 120 (2022), 106275 https://doi.org/10.1016/j.landusepol.2022.106275

[58] Hugh Breakey, Graham Wood and Charles Sampford, 'Understanding and Defining the Social License to Operate: Social Acceptance, Local Values, Overall Moral Legitimacy, and "Moral Authority"', *Resources Policy*, 102 (2025), 105488 https://doi.org/10.1016/j.resourpol.2025.105488

expiration of registered tenure and the termination of separate civil interests should not be treated as identical legal events.[59]

The dispute between PT Way Halim and PT Hasil Karya Kita Bersama in Bandar Lampung provides a direct illustration of this distinction. PT Way Halim previously held several building rights certificates over land in the Way Halim area. Following the expiration of those rights, PT Hasil Karya Kita Bersama obtained a location permit, acquired interests from parties occupying the land, and submitted applications for new Building rights. PT Way Halim objected because it considered that its remaining civil interests had not been released or compensated. The Land Office consequently suspended the registration process pending settlement of the competing claims. The dispute therefore concerned whether expired certificates could continue to support civil claims capable of preventing the government from granting new rights.[60]

The District Court of Tanjung Karang examined the dispute in Decision Number 65/Pdt.G/2015/PN.Tjk and rejected the applicant's claim on 1 February 2016. The High Court subsequently upheld that judgment through Decision Number 19/Pdt/2016/PT.TJK. The lower courts considered the regulatory requirements governing location permits and the protection of existing interests during land acquisition. Their reasoning emphasized that the acquisition of land for development should respect legally recognized interests that had not been released or compensated. This interpretation gave considerable weight to the former holder's alleged civil position despite the expiration of its registered tenure. The Supreme Court adopted a different interpretation in Decision Number 2900 K/Pdt/2016, dated 25 January 2017. It overturned the earlier judgments and examined whether PT Way Halim continued to possess and maintain the disputed land or owned identifiable buildings, crops, or other improvements situated upon it. The Court found that the company had not maintained effective possession and that other parties had occupied or managed the relevant areas. The available records also indicated that the former holder no longer maintained identifiable improvements on the disputed parcels. The Supreme Court consequently concluded that PT Way Halim no longer possessed enforceable civil interests in the land and that PT Hasil Karya Kita Bersama had no obligation to provide compensation on the asserted basis.[61]

The contrast between these judgments demonstrates how different interpretations of civil interests may produce conflicting legal outcomes. The lower courts emphasized the protection of interests associated with the former holder's

[59] Huntington and Lisher.
[60] Rosine Tchatchoua-Djomo and Han van Dijk, 'Ambiguous Outcomes of Returnees' Land Dispute Resolution and Restitution in War-Torn Burundi', *Land*, 11.2 (2022), 191 https://doi.org/10.3390/land11020191
[61] Restu Adhie Charisma, Anriz Nazaruddin Halim and Taqiyuddin Kadir, 'Legal Protection for Land Rights Holders Included in the Toll Road Development Project Plan Accompanied with Compensation', *KRTHA BHAYANGKARA*, 19.1 (2025) https://doi.org/10.31599/krtha.v19i1.3659

previous legal relationship with the land. The Supreme Court examined whether those interests remained legally and factually identifiable after tenure expiration. The latter approach distinguishes the termination of registered rights from the existence of independent civil claims. However, the judgment does not establish that physical possession alone creates ownership or that the absence of possession necessarily extinguishes every contractual claim. Its significance lies in the assessment of the evidence supporting the alleged continuing interests.[62]

The Supreme Court also addressed the administrative consequences of the dispute. The Court considered that requiring the applicant to submit the original expired certificates as an additional condition for obtaining new rights had unnecessarily obstructed the registration process. It concluded that the relevant administrative procedures should continue because the former holder no longer possessed enforceable interests capable of preventing the application. This reasoning illustrates the importance of distinguishing legitimate administrative verification from requirements that lack a sufficient legal basis. Land Offices must protect valid claims, but they should not allow unsupported objections to prevent the exercise of their statutory responsibilities.[63]

The dispute involving PT Socfin Indonesia and the Maju Bersama Farmers Organization in North Sumatra presents a different legal problem. The conflict concerned approximately 450 hectares associated with Cultivation Rights Number 2/Tanjung Meriah. Community members asserted historical claims based on earlier occupation and land distribution documents, while the company relied on registered plantation rights and administrative records. The disputed plantation area formed part of a broader historical relationship involving previous concessions, changes in plantation administration, and competing claims concerning land occupation. Unlike the Way Halim dispute, the principal disagreement concerned the historical origin of land interests and the relationship between community claims and registered plantation tenure.[64]

Judicial proceedings concerning the Socfin dispute also demonstrate the importance of jurisdictional boundaries. In Case Number 62/G/2010/PTUN.MDN, the Medan Administrative Court declared that it lacked absolute jurisdiction to adjudicate the dispute and ruled the claim inadmissible. This outcome demonstrates that legal protection depends not only on the substance of the alleged right but also on the selection of the competent judicial forum. Parties must

[62] Moh. Ferdi Hasan, 'Educational Authority and Regulatory Legitimacy: Comparing Normative Systems in Pesantren and Public Schools in Indonesia', *Legal Pluralism and Critical Social Analysis*, 57.2–3 (2025), 182–206 https://doi.org/10.1080/27706869.2025.2556586

[63] Adane Mehari Getie, Tadesse Amsalu Birhanu and Teshome Taffa Dadi, 'Rural Cadastral Implementation and Its Effect on Women's Landholding Use Rights in Amhara Region, Ethiopia', *Land Use Policy*, 127 (2023), 106556 https://doi.org/10.1016/j.landusepol.2023.106556

[64] Riyadi Mustofa and others, 'Land Tenure Conflicts in Forest Areas: Obstacles to Rejuvenation of Small-Scale Oil Palm Plantations in Indonesia', *International Journal of Law and Management*, 67.3 (2025), 341–62 https://doi.org/10.1108/IJLMA-09-2023-0216

distinguish challenges concerning the legality of administrative decisions from disputes requiring determination of civil ownership or other private interests. Failure to establish the appropriate jurisdiction may prevent courts from examining the substantive claim.[65]

A related dispute involving PT PD Paya Pinang concerned plantation land in Paya Mabar and Sei Buluh, North Sumatra. The company held Hak Guna Usaha Number 1/Paya Mabar, covering approximately 475 hectares, and Cultivation Rights Number 1/Sei Buluh, covering approximately 211.3 hectares. According to the available records, these rights expired in 2012 and 2013 respectively. Competing claims involved the company, individuals asserting historical ownership interests, and farming communities occupying parts of the plantation area. The dispute generated multiple administrative and civil proceedings concerning the legality of earlier government decisions, the validity of registered plantation rights, and the legal consequences of historical land allocation.[66]

The judicial history of the Paya Pinang dispute demonstrates that administrative and civil proceedings may produce different procedural outcomes. In Decision Number 34/G/2009/PTUN.MDN, the Medan Administrative Court initially ordered the cancellation of the disputed certificates. However, the subsequent appellate process did not maintain that determination. The Supreme Court rejected the cassation application through Decision Number 170 K/TUN/2010, while the subsequent judicial review application was rejected through Decision Number 134 PK/TUN/2011. Other proceedings concerning the same land resulted in findings concerning jurisdiction or the admissibility of claims. These developments demonstrate that the existence of historical documents and competing claims does not automatically establish a legally enforceable entitlement.[67]

The Paya Pinang dispute also illustrates the importance of examining the relationship between documentary evidence and physical possession. Individuals may possess documents concerning earlier land transactions, inheritance, or occupation without necessarily establishing a currently enforceable registered right. Conversely, the existence of a registered certificate does not independently resolve every dispute concerning the legality of its issuance. Courts must examine the origin of competing claims, the validity of administrative decisions, and the legal consequences of earlier transactions. Land Offices must likewise avoid

[65] Andrijana Zivic and others, 'Who's Afraid of EU Primary Law? Judicial Review of the EPPO's Decision on Forum Choice', *New Journal of European Criminal Law*, 13.4 (2022), 398–419 https://doi.org/10.1177/20322844221139812

[66] Daniel Peterson, Adriaan Bedner and Ward Berenschot, 'The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia', *Journal of Contemporary Asia*, 2025, 1–22 https://doi.org/10.1080/00472336.2024.2440855

[67] Dena Mahmudnia, Mehrdad Arashpour and Rebecca Yang, 'Blockchain in Construction Management: Applications, Advantages and Limitations', *Automation in Construction*, 140 (2022), 104379 https://doi.org/10.1016/j.autcon.2022.104379

treating documentary evidence or physical possession as conclusive without examining the applicable legal framework.[68]

The dispute involving PT SMART and farming communities in Padang Halaban provides another perspective on legal protection. Community members asserted claims over approximately 3,000 hectares of plantation land, while the company relied on registered Hak Guna Usaha rights and earlier administrative decisions. The dispute generated prolonged mediation efforts and judicial proceedings concerning land possession and legal entitlement. In Decision Number 08/Pdt.G/2009/PN.Rap, the District Court of Rantauprapat rejected the community's principal claim and recognized the legal position of the registered plantation rights holders within the relevant proceedings. The High Court upheld the judgment, and the Supreme Court rejected the subsequent cassation application through Decision Number 2207 K/Pdt/2011.

The continuation of disputes after these judgments illustrates the practical difficulties of enforcing land rights decisions. The available records indicate that further proceedings concerned possession and the execution of judgments affecting the disputed plantation land. They also record an execution carried out on 28 January 2026 following earlier judicial determinations. These developments demonstrate that the formal resolution of a legal dispute does not necessarily eliminate the social consequences of land conflict. Nevertheless, the legal protection of affected parties must remain grounded in applicable law and binding judicial decisions. Administrative authorities should not equate social vulnerability with automatic ownership, but they must ensure that enforcement procedures respect the legal rights and procedural safeguards of all affected parties.[69]

The Way Halim case directly concerns whether a former Building rights holder retains civil interests after tenure expiration. The Socfin and Paya Pinang disputes concern historical claims, plantation tenure, and the jurisdiction of courts reviewing administrative decisions. The SMART dispute demonstrates the relationship between registered plantation rights, community occupation, and the enforcement of judicial judgments. Although these cases arise from different factual circumstances, they collectively demonstrate the importance of distinguishing legal entitlement, physical possession, administrative authority, and the availability of judicial remedies.[70]

[68] Tomáš Peráček and Michal Kaššaj, 'Legal Easements as Enablers of Sustainable Land Use and Infrastructure Development in Smart Cities', *Land*, 14.4 (2025), 681 https://doi.org/10.3390/land14040681
[69] Satyam Srivastav and others, 'Intelligent Justice: AI-Driven Forensics and Legal Process for Criminal Justice Reforms', *International Journal of Law, Crime and Justice*, 84 (2026), 100832 https://doi.org/10.1016/j.ijlcj.2026.100832
[70] Shahrul Natasha Halid and Jady Zaidi Hassim, 'Exploring Legal Tenure Security in Malaysia: Does Formal Titling Ensures Rights to Land Owners?', *Cogent Social Sciences*, 10.1 (2024) https://doi.org/10.1080/23311886.2024.2433793

These distinctions have direct implications for preventive legal protection. Land Offices should verify the expiration of previous rights, examine the legal status of the underlying land, and identify any relevant applications for extension or renewal. They should also provide interested parties with appropriate opportunities to submit objections and supporting documents. However, an objection should not automatically prevent the processing of a new application. Administrative authorities must determine whether the objection concerns an existing registered right, an independent civil claim, or a factual disagreement requiring further examination.[71]

Remedial legal protection requires an equally clear distinction between administrative and judicial mechanisms. Administrative review may address unlawful decisions, procedural defects, or errors in land registration. Civil proceedings may determine compensation claims, contractual obligations, or competing private interests. Criminal proceedings may establish liability for falsification or other unlawful conduct affecting land documentation. These mechanisms serve different purposes and should not be treated as interchangeable. Clear coordination among them would reduce the risk of prolonged disputes and inconsistent administrative responses.[72]

The combined evidence demonstrates that the expiration of Business Use Rights, Building Use Rights, or Use Rights terminates the authority attached to the previous registered right according to the applicable legal provisions. Nevertheless, former holders may pursue independent civil claims where legislation, agreements, or other legally recognized circumstances provide a valid foundation.[73] Land Offices should examine such claims without automatically recognizing them as continuing land rights or allowing unsupported objections to obstruct new applications. Effective legal protection therefore requires a coherent relationship between substantive land law, administrative procedures, and judicial remedies. By distinguishing the termination of registered rights from physical possession and independent civil interests, Indonesian land administration can protect legitimate claims while ensuring predictable legal consequences following tenure expiration.[74]

[71] Asnakew and others.
[72] Giulia Gentile, 'Effective Judicial Protection: Enforcement, Judicial Federalism and the Politics of EU Law', *European Law Open*, 2.1 (2023), 128–43 https://doi.org/10.1017/elo.2022.48
[73] Bogdan Derevyanko and others, 'Legal Foundations for Resolving Land Disputes Through Mediation as An Alternative Dispute Resolution Method', *European Energy and Environmental Law Review*, 32.Issue 5 (2023), 248–56 https://doi.org/10.54648/EELR2023014
[74] I Made Suwimba Arimbawa, I Nyoman Sujana and I Made Pria Dharsana, 'Legal Protection of Right Holder of Building Usage Rights That Have Ended the Extension Period in Accordance with the Provisions of Government Regulation of the Republic of Indonesia Number 18 Year 2021', in *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Paris: Atlantis Press SARL, 2023), pp. 518–25 https://doi.org/10.2991/978-2-494069-93-0_62

Land Registration Regulations to Strengthen Legal Protection and Legal Certainty

Indonesia's land registration framework has established extensive procedures for granting, extending, renewing, and terminating land rights. However, the regulation of applications involving land whose previous tenure has expired remains insufficiently integrated with the protection of legitimate civil interests and the exercise of administrative authority.[75] Law Number 5 of 1960 concerning Basic Agrarian Principles establishes the state's responsibility to regulate land relationships, while Government Regulation Number 18 of 2021 and Ministerial Regulation of Agrarian Affairs and Spatial Planning Number 18 of 2021 provide more detailed arrangements for land rights administration. These instruments recognize the legal consequences of tenure expiration and establish procedures for subsequent land allocation. Nevertheless, they leave important questions concerning the examination of competing claims, the evidentiary requirements for new applications, and the circumstances in which Land Offices may suspend administrative proceedings. Addressing these questions requires a regulatory model that connects substantive land rights, civil protection, and administrative decision making.[76]

The constitutional foundation for this reconstruction derives from Article 33 paragraph (3) of the 1945 Constitution, which authorizes the state to control land and natural resources for public prosperity. Article 2 of the Basic Agrarian Law translates this constitutional principle into authority to regulate land allocation, utilization, and legal relationships. State control therefore carries a responsibility to establish clear legal rules and administer them consistently. It does not confer unrestricted discretion upon administrative institutions or eliminate legally recognized private interests. The government must exercise its authority within the principles of legality, accountability, fairness, and public welfare. Consequently, the regulation of expired land rights should reconcile the state's authority to allocate land with its obligation to protect legitimate claims and prevent arbitrary administrative decisions.[77]

From thirteen Land Offices demonstrate the practical consequences of unclear regulatory standards. Twelve respondents, representing approximately 92.3 percent of the sample, considered that former Hak Guna Bangunan holders retained civil interests after their registered rights expired. Only one respondent considered those interests extinguished upon expiration without extension or renewal. This substantial difference between the dominant administrative interpretation and the legal consequence of terminating a registered right reveals

[75] Werdhi Sutisari and others, 'Land Disputes and Conflicts in Indonesia's Mining Areas: What Constitutes the Ideal Role of the National Land Agency?', *Journal of Law, Environmental and Justice*, 4.1 (2026), 340–70 https://doi.org/10.62264/jlej.v4i1.290

[76] Helen Briassoulis, 'Land Use Planning for Land Degradation Neutrality: Reflections and Critical Challenges', *Land Degradation & Development*, 36.3 (2025), 975–1001 https://doi.org/10.1002/ldr.5407

[77] Noval Abi Putra, 'The Urgency Of Land Administration Accuracy By The National Land Agency To Minimize Land Disputes', *Awang Long Law Review*, 8.2 (2026) https://doi.org/10.56301/awl.v8i2.1887

an important conceptual problem. Many respondents associated the former holder's previous acquisition of land with continuing ownership interests, even where the registered tenure had expired. Such reasoning risks treating the acquisition of a limited land right as equivalent to permanent ownership of the underlying land.[78]

The disagreement becomes more apparent when examining whether former holders may transfer land after their building rights expires. Nine of the thirteen respondents, representing approximately 69.2 percent, considered that former holders could transfer interests associated with the land. Four respondents rejected or qualified that possibility, including one who considered the presence of other occupants an obstacle to transfer. These responses reveal that administrative officials do not consistently distinguish the transfer of an existing registered land right from the transfer of a separate legally recognized interest. A former holder cannot transfer an expired registered right as though it remained valid. However, the parties may enter lawful arrangements concerning independent interests where the law permits such transactions. Regulations should expressly distinguish these circumstances to prevent the transfer of expired certificates from becoming an improper basis for subsequent registration.[79]

The survey also identifies uncertainty concerning applications submitted by new parties where former holders no longer possess the land. Eleven respondents considered that applications should not proceed without addressing the former holder's position, while one respondent considered that an application could proceed, and another indicated that prolonged possession might provide a relevant basis for registration. One response was not clearly classified in the available table. These findings suggest that administrative institutions may impose different requirements on applicants facing substantially similar legal circumstances. Some offices emphasize settlement with former holders, while others prioritize physical possession or the legal status of the underlying land. Such variations may prolong registration procedures and weaken predictability.[80]

A further inconsistency concerns the obligation to surrender expired certificates. Four respondents considered surrender necessary, seven considered it unnecessary, and two did not provide a clearly classified response. This distribution demonstrates uncertainty concerning the administrative consequences of tenure expiration and the relationship between certificate surrender and the legal termination of rights. The expiration of tenure should not depend solely on

[78] Simon Büchler and Elena Lutz, 'Making Housing Affordable? The Local Effects of Relaxing Land-Use Regulation', *Journal of Urban Economics*, 143 (2024), 103689 https://doi.org/10.1016/j.jue.2024.103689
[79] Syafrizal Wahyudi, Yusri Yusri and Ria Fitri, 'Status of Mortgage Rights on Building Use Rights on Land Whose Term Has Expired', *LAW & PASS: International Journal of Law, Public Administration and Social Studies*, 2.2 (2025), 41–52 https://doi.org/10.47353/lawpass.v2i2.71
[80] David Asante Edwin, Evam Kofi Glover and Edinam K. Glover, 'Landed Property as Collateral to Access Credit for Housing Development in Ghana: The Case of Northern Region of Ghana', *Heliyon*, 9.7 (2023), e17646 https://doi.org/10.1016/j.heliyon.2023.e17646

the physical return of a certificate when legislation establishes expiration as a legal event. Nevertheless, authorities must maintain accurate registration records and ensure that expired certificates cannot be used to support unauthorized transactions. A clear procedure for recording expiration, notifying former holders, and updating land information would reduce these risks. These empirical findings support the need to harmonize Government Regulation Number 18 of 2021 with Ministerial Regulation Number 18 of 2021 and the broader land registration framework. Existing regulations recognize land originating from expired rights as a possible object of subsequent allocation. However, the administrative requirements for obtaining new rights may remain unclear when the applicant relies on physical possession, a previous transaction, or an agreement with a former holder. The regulations should therefore distinguish land whose previous registered right has expired from land acquired through the voluntary release of an existing right. These situations involve different legal events and should not require identical evidence.[81]

The first element of regulatory reconstruction concerns the clarification of essential legal concepts. Implementing regulations should define the legal basis for acquiring land, physical possession, registered land rights, and independent civil interests.[82] The legal basis for acquisition refers to a legally recognized act or event that supports a person's relationship with a parcel. Physical possession concerns factual control and utilization, while a registered land right establishes authority recognized under the applicable agrarian legislation. Independent civil interests may arise from contracts, ownership of improvements, or other legally recognized circumstances. Clear definitions would prevent administrative authorities from treating these concepts as interchangeable.[83]

The second element concerns the determination of land status following tenure expiration. Land Offices should verify the previous right, its expiration date, the status of the underlying land, and any legally effective application for extension or renewal. Where the former right existed over land directly controlled by the state, the authorities should determine whether the parcel has returned to direct state control and whether subsequent allocation remains subject to statutory priorities or public policies. Where Management Rights or private ownership underlie the expired right, the authorities must respect the continuing legal relationship

[81] Nguyen Tran Tuan, 'Land Tenure and Land Acquisition Enforcement in Vietnam', *Sage Open*, 13.1 (2023) https://doi.org/10.1177/21582440231163102

[82] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 https://doi.org/10.53955/jsderi.v1i3.15

[83] Cheng Zhou, Wanhao Zhang and Clare Richardson-Barlow, 'Navigating Ecological Civilisation: Polycentric Environmental Governance and Policy Regulatory Framework in China', *Energy Research & Social Science*, 128 (2025), 104347 https://doi.org/10.1016/j.erss.2025.104347

associated with that land. This verification should precede the examination of applications for new rights.[84]

The third element requires a clear distinction between the expiration of registered tenure and the enforceability of separate civil claims. The termination of business use rights, building use rights, or use rights ends the legal authority attached to the previous registered right according to the applicable provisions. However, it does not necessarily extinguish independent claims arising from valid agreements or other legally recognized interests.[85] The Supreme Court's reasoning in Decision Number 2900 K/Pdt/2016 demonstrates the importance of examining whether former holders continue to possess and maintain the land or retain identifiable improvements. Nevertheless, physical possession and the existence of improvements should function as relevant evidence rather than automatic grounds for recognizing continuing land rights or compensation entitlements. The fourth element concerns the classification of applications according to the factual and legal condition of the land. The proposed model distinguishes four circumstances. The first concerns land whose previous right has expired and which neither the former holder nor another party occupies.[86] The second concerns land occupied by third parties following tenure expiration. The third concerns land that the former holder continues to possess or utilize. The fourth concerns land that the former holder no longer occupies but which contains buildings, crops, or other identifiable improvements associated with that holder. Each circumstance requires a different administrative examination because the relevant evidence and potential legal interests are not identical.[87]

Where no party occupies the land and no independent interests remain legally relevant, the applicant should establish the legal basis of the application through the documents permitted under the applicable regulations. Where third parties occupy the land, the authorities should examine the nature of their possession and determine whether the applicant has lawfully resolved any interests that require settlement.[88] Where the former holder remains in possession, the authorities should examine the legal basis of that possession and determine whether the application may proceed without affecting a legally protected interest. Where buildings or improvements remain, the authorities should establish ownership and the

[84] Zhongguo Xu and others, 'An LADM–Based Model to Facilitate Land Tenure Reform of Rural Homesteads in China', *Land Use Policy*, 120 (2022), 106271 https://doi.org/10.1016/j.landusepol.2022.106271
[85] Cynthia Nneka Olumba, Guy Garrod and Francisco Jose Areal, 'Time Preferences, Land Tenure Security, and the Adoption of Sustainable Land Management Practices in Southeast Nigeria', *Sustainability*, 16.5 (2024), 1747 https://doi.org/10.3390/su16051747
[86] Abdul Kadir Jaelani, 'Land Procurement for Infrastructure Projects under the Job Creation Law', *Contrarius*, 1.1 (2025) https://doi.org/https://doi.org/10.53955/contrarius.v1i1.80
[87] Kurt Smith and Frederick Cubbage, 'Land Fragmentation and Heirs Property: Current Issues and Policy Responses', *Land*, 13.4 (2024), 459 https://doi.org/10.3390/land13040459
[88] Asnakew and others.

applicable legal arrangements before determining whether removal, transfer, or compensation is required.[89]

The fifth element concerns procedural safeguards for former holders and new applicants. Land Offices should establish a notification mechanism that informs identifiable interested parties when an application concerns land previously subject to expired tenure.[90] Notification should provide an opportunity to submit relevant evidence within a defined period. Authorities should examine objections according to their legal basis, supporting documents, and relationship with the requested right. An objection concerning a valid registered interest requires a different response from a claim based solely on an expired certificate. Similarly, a contractual compensation dispute should not automatically prevent administrative examination unless the applicable law or a binding judicial measure requires suspension.[91]

The sixth element requires a clear division of authority between administrative institutions and courts. Land Offices possess authority to verify documents, determine administrative eligibility, examine land status, and process applications according to statutory requirements.[92] Courts determine disputes that fall within their respective jurisdictions, including civil claims requiring judicial adjudication and challenges concerning the legality of administrative decisions. Administrative authorities should not attempt to resolve substantive private disputes beyond their competence. Conversely, they should not transfer every administrative question to the judiciary merely because another party submits an objection. Clear jurisdictional boundaries would reduce unnecessary litigation and prevent indefinite administrative delays.[93]

The seventh element concerns transparent and consistent administrative decisions. Land Offices should record the legal grounds for accepting, rejecting, or suspending applications. Decisions should identify the relevant facts, applicable provisions, documentary evidence, and reasons supporting the administrative outcome. Where authorities require additional documents, they should explain their legal relevance.[94] Where an objection requires judicial determination, the

[89] Raksha Khadka, Lila Karki and Prem Bhandari, 'A Review Analysis of Heirs' Property Challenges in Sustainable Land Use', *Land*, 14.10 (2025), 2070 https://doi.org/10.3390/land14102070

[90] Bakhromjon Rakhimjonovich Topildiev and others, 'Legal Challenges and Policy Implications for Property Rights Protection in Uzbekistan', *Journal of Human Rights, Culture and Legal System*, 6.1 (2026), 116–46 https://doi.org/10.53955/jhcls.v6i1.893

[91] Armalia Berlinda Irawan, Rahayu Subekti and Bobur Baxtishodovich Sobirov, 'Legal Protection in Land Acquisition for Public Interest: A Dilemma Between State Regulation and Social Welfare', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 148–68 https://doi.org/10.53955/jsderi.v2i2.38

[92] Sommer and de Vries.

[93] Iswantoro Iswantoro, 'Strategy and Management of Dispute Resolution, Land Conflicts at the Land Office of Sleman Regency', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) https://doi.org/10.53955/jhcls.v1i1.3

[94] Agung Basuki, M Zaid and Alnour Abobaker Mohamed Musa, 'Establishing Ecological Justice in the Governance of Land Inventory, Ownership, and Utilisation in Indonesia', *Journal of Law, Environmental and Justice*, 1.2 (2023), 137–54 https://doi.org/10.62264/jlej.v1i2.12

authorities should identify the specific issue that prevents further administrative action. These requirements would strengthen accountability and enable applicants to understand the procedures necessary to protect their interests.[95] The eighth element concerns the modernization of registration records. Electronic land administration should record the expiration of rights, applications for extension or renewal, subsequent allocation decisions, and legally relevant restrictions or disputes. Accurate records would reduce the risk that former holders or other parties rely on expired certificates to support unauthorized transactions. However, electronic systems should not replace substantive legal examination. Their principal function should be to improve access to reliable information and support consistent administrative decisions.[96]

The proposed reconstruction integrates legal certainty, legal protection, justice, and utility into a single administrative framework. Legal certainty requires clear rules concerning tenure expiration and subsequent registration.[97] Legal protection requires the examination of legitimate interests without automatically preserving expired rights. Justice requires authorities to consider the legal position of former holders, new applicants, and affected occupants according to their respective entitlements. Utility requires procedures that prevent unnecessary delays and support the lawful and productive utilization of land.[98] These principles should operate together rather than function as competing administrative objectives. The resulting model establishes a sequential process of land status verification, identification of interested parties, examination of independent civil claims, classification of the application, assessment of objections, and issuance of a reasoned administrative decision. It also requires authorities to identify disputes that need judicial determination without automatically suspending every application involving a former right holder. By integrating these procedures into the regulatory framework, Indonesia can reduce differences in administrative interpretation and strengthen the predictability of land rights decisions.[99]

The reconstruction therefore addresses a specific weakness that existing regulations have not fully resolved: the absence of sufficiently detailed procedures

[95] Ridwan Arifin and others, 'A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 159–81 https://doi.org/10.24090/volksgeist.v6i2.9596

[96] Abdul Wahid, I Gusti Ayu Ketut Rachmi Handayani and Lego Karjoko, 'Reform of the Land Registration System in Indonesia: A Max Weberian Rational-Legal Bureaucracy Approach', *Pandecta Research Law Journal*, 20.2 (2025), 717–56 https://doi.org/10.15294/pandecta.v20i2.13666

[97] Suhadi Suhadi and Aprila Niravita, 'Urban Agrarian Reform: Opportunities and Challenges for Land Rights among Low-Income Communities', *Legality : Jurnal Ilmiah Hukum*, 32.2 (2024), 348–73 https://doi.org/10.22219/ljih.v32i2.35842

[98] Alif Abdurrahman, Budi Santoso and Ery Agus Priyono, 'Extended Land-Tenure Rights In Nusantara: A Legal Analysis Of Regulatory Inconsistency And Agrarian Justice', *Jurnal Hukum Progresif*, 14.2 (2026), 421–58 https://doi.org/10.14710/jhp.14.2.421-458

[99] Riza Zulfikar, Diliya Mariam Rinzani and Fitria Agung Nursyahda, 'Resolution of Disputes on the Use of Regional Government Property Land Managed by Individuals in the Community Linked to Principles of Justice', *KnE Social Sciences*, 2024 (2024), 273–87 https://doi.org/10.18502/kss.v9i24.16843

for granting new rights over land whose previous tenure has expired while competing claims remain. Rather than treating the former holder's position as either permanently protected or automatically irrelevant, the proposed model evaluates each claim according to its legal basis, factual circumstances, and enforceability. This approach provides a more coherent foundation for land administration by connecting the legal consequences of tenure expiration with transparent procedures, effective protection, and consistent decisions. It also strengthens the state's capacity to administer land in accordance with the constitutional objectives of legal certainty, social justice, and public welfare.[100]

Conclusion

This study identifies significant regulatory and administrative inconsistencies in the granting and registration of land rights following tenure expiration in Indonesia. Although the Basic Agrarian Law, Government Regulation Number 18 of 2021, and their implementing regulations establish the legal framework for extending, renewing, and terminating land rights, they provide insufficient guidance on the treatment of civil interests claimed by former right holders. The survey involving thirteen Land Offices reveals considerable differences in interpreting the legal consequences of expired tenure, particularly regarding compensation, the transfer of interests, and the documentary requirements for new applications. These differences allow administrative authorities to apply inconsistent procedures, delay registration decisions, and create uncertainty for former right holders and prospective applicants. The examination of Supreme Court Decision Number 2900 K/Pdt/2016 establishes a distinction between the termination of registered land rights and the possible continuation of independent civil claims. The expiration of Business Use Rights, Building Use Rights, or Use Rights ends the legal authority conferred by the previous tenure, but it does not necessarily eliminate contractual rights or legally protected interests in buildings, crops, and other improvements. Former holders must establish the legal basis and supporting evidence for any continuing claim. Physical possession, previous registration, or an opportunity to apply for renewed tenure does not independently establish permanent ownership or an automatic entitlement to compensation. Land Offices must therefore assess the legal status of the land and the nature of competing claims rather than presume that all civil interests either survive or disappear upon expiration.

[100] Reymen Maykel Rewah and others, 'Land Acquisition for Public Interest: What Constitutes the Public Interest and Which Legal Safeguards Ensure Substantive Justice?', *Journal of Law, Environmental and Justice*, 4.2 (2026), 745–72 https://doi.org/10.62264/jlej.v4i2.327

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