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BEYOND LAND CERTIFICATES: A DOCTRINAL FRAMEWORK FOR INTEGRATED LEGALITY IN INDONESIAN TOURISM INVESTMENT

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Abstrak

Pengembangan pariwisata berbasis investasi di Indonesia masih menghadapi berbagai persoalan hukum pertanahan meskipun kerangka regulasi semakin lengkap. Permasalahan tersebut sering dikaitkan dengan ketidaksesuaian antara legalitas administratif, penguasaan fisik tanah, pemanfaatan ruang, serta perlindungan hak masyarakat lokal. Penelitian ini bertujuan menilai hubungan normatif antara rezim pertanahan, tata ruang, lingkungan hidup, perizinan berusaha, dan kepariwisataan, mengaitkannya dengan persoalan praktik yang telah terdokumentasi dalam studi terdahulu, serta merumuskan kerangka verifikasi bertahap sebagai rancangan kebijakan yang dapat diuji. Penelitian ini merupakan penelitian hukum doktrinal dengan pendekatan perundang-undangan, konseptual, dan kasus terhadap tiga putusan Mahkamah Konstitusi; literatur sosiolegal digunakan sebagai konteks, bukan sebagai data lapangan. Bahan hukum dianalisis melalui interpretasi serta sinkronisasi vertikal dan horizontal. Analisis menunjukkan bahwa legalitas pemanfaatan tanah untuk pariwisata dapat dipahami melalui empat lapisan analitis yang terpisah secara hukum, yaitu kepastian hak atas tanah, kesesuaian tata ruang, persetujuan lingkungan, dan perizinan berusaha; masing-masing menjawab pertanyaan hukum yang berbeda dan tidak dapat saling menggantikan. Penelitian ini mengidentifikasi sejumlah risiko, antara lain fragmentasi kelembagaan, ketidaksesuaian data spasial dan yuridis, keterbatasan pemeriksaan hukum, serta kepentingan masyarakat yang tidak tercatat dalam dokumen hak; risiko tersebut tidak dibuktikan sebagai penyebab utama ketidakpastian hukum. Kontribusi penelitian ini berupa kerangka analitis legalitas terintegrasi dan rancangan titik verifikasi sebelum pengadaan tanah, sebelum pembangunan, dan selama operasional, yang efektivitas, biaya, dan kelayakannya masih memerlukan pengujian empiris.

Kata Kunci: Kepastian Hukum, Penelitian Hukum Doktrinal, Tata Kelola Tanah Pariwisata, Koordinasi Regulasi, Legalitas Berlapis.

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Abstract

Investment-based tourism development in Indonesia continues to encounter land-related legal problems despite the increasingly comprehensive regulatory framework. These problems are often associated with inconsistencies between administrative legality, actual land occupation, spatial utilization, and the protection of local communities' rights. This study assesses the normative relationships among the land, spatial planning, environmental, business licensing, and tourism regimes, relates them to practice problems documented in prior studies, and formulates a staged verification framework as a testable policy design. It is doctrinal legal research using statutory, conceptual, and case approaches to three Constitutional Court decisions; socio-legal literature is used as context, not as field data. Legal materials are analyzed through interpretation and vertical and horizontal synchronization. The analysis shows that the legality of land use for tourism can be understood through four legally distinct analytical layers—land tenure, spatial conformity, environmental approval, and business licensing—each answering a different legal question and none substituting for another. The study identifies several risks, including institutional fragmentation, mismatches between spatial and juridical data, limited legal due diligence, and community interests not recorded in title documents; these risks are not established as the principal causes of legal uncertainty. Its contribution is an analytical framework of integrated legality and a design for verification checkpoints before land acquisition, before construction, and during operation, whose effectiveness, cost, and feasibility still require empirical testing.

Keywords: Legal Certainty, Doctrinal Legal Research, Tourism Land Governance, Regulatory Coordination, Layered Legality.

PENDAHULUAN

Land occupies a strategic position in investment-based tourism development in Indonesia because it provides the foundation for infrastructure, accommodation, recreational facilities, and various supporting economic activities. Constitutionally, Article 33(3) of the 1945 Constitution of the Republic of Indonesia establishes that state control over agrarian resources must be directed toward achieving the greatest prosperity of the people. This principle is reinforced by Law Number 5 of 1960 concerning Basic Agrarian Principles, which recognizes the social function of land rights as an inseparable component of land ownership and utilization (Harsono, 2008; Sumardjono, 2008). However, tourism investment development reveals a fundamental paradox between increasing land values and the declining accessibility of local communities to their traditional sources of livelihood. Sumarja et al. (2023), in their study of the West Coast tourism area of Lampung, demonstrate that tourism expansion may facilitate problematic land-control arrangements and contribute to the marginalization of local communities. Similarly, Meckelburg and Wardana (2024) reveal that the expansion of public-interest interpretations in land acquisition may intensify conflicts over land control and accessibility. These conditions indicate that regulatory completeness and formal land documentation do not necessarily guarantee substantive justice. Consequently, the

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contradiction between investment certainty and community protection constitutes an important academic and practical problem requiring comprehensive legal investigation.

Land governance in Indonesian tourism development has undergone significant transformation following regulatory reforms, investment policy adjustments, administrative digitalization, and the growing emphasis on sustainable development. Previously, land administration, spatial planning, environmental approval, and business licensing were generally administered through separate sectoral mechanisms characterized by different procedures, institutional responsibilities, and information systems. Regulatory transformation became increasingly apparent through Government Regulation Number 18 of 2021 concerning land rights and land registration and Government Regulation Number 21 of 2021 concerning spatial planning implementation. Subsequent developments included Law Number 18 of 2025 amending the tourism regulatory framework, Government Regulation Number 28 of 2025 concerning risk-based business licensing, and Government Regulation Number 48 of 2025 concerning the control of abandoned areas and land. These regulatory changes indicate a shift toward more integrated administrative services, risk-based supervision, and sustainable land utilization. Nevertheless, Wijaya et al. (2023) emphasize the importance of effective spatial utilization control in tourism areas following national regulatory reforms. Furthermore, regulatory modernization does not automatically resolve inconsistencies between juridical land records, actual physical occupation, and community interests. Accordingly, contemporary regulatory transformation presents opportunities to strengthen investment certainty while simultaneously creating challenges concerning legal harmonization, institutional coordination, and substantive land protection.

The specific research problem concerns the fragmentation of legal arrangements governing land occupation, acquisition, transfer, and utilization within investment-based tourism development in Indonesia. As documented in previous studies, a land parcel may possess formally valid ownership documentation while simultaneously being subject to unresolved boundary disputes, competing inheritance claims, customary occupation, community utilization, or inconsistencies with applicable spatial planning regulations. Sumarja et al. (2023) identify problematic arrangements involving foreign control of land in tourism destinations in Lampung, while Wardana (2020) highlights economic pressures affecting agrarian landscapes and agricultural livelihoods in Bali. These problems become increasingly complex when land administration, investment licensing, environmental governance, and spatial planning authorities employ different verification standards and institutional databases. Consequently, legal uncertainty may affect registered landowners, customary communities, investors, local governments, and residents whose livelihoods depend on continued access to land and natural resources. This study identifies these problems through normative legal analysis and relevant scholarly literature rather than

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presenting unverified primary field observations. Ideally, land governance should ensure consistency between legal documentation, physical occupation, permitted land use, and social protection. However, the reviewed regulations and published studies indicate that administrative legality does not necessarily establish substantive certainty regarding land ownership, control, and utilization.

Legal uncertainty concerning land governance in investment-based tourism development requires urgent attention because its consequences extend beyond individual ownership disputes to broader economic, social, environmental, and institutional dimensions. Unclear land status may increase transaction costs, delay infrastructure development, undermine investment financing, and generate conflicts between registered landholders and communities exercising longstanding occupation or utilization rights. From a social perspective, changes in land control may restrict community access to agricultural land, water resources, coastal areas, traditional pathways, and culturally significant spaces. Cole et al. (2021) demonstrate the relationship between tourism expansion and unequal access to water resources in Bali, while Meckelburg and Wardana (2024) examine conflicts associated with land acquisition policies and competing development interests. These findings indicate that land disputes cannot be adequately understood merely as questions of certificate validity or contractual compliance. Once physical development has commenced, correcting legal and spatial irregularities becomes increasingly difficult because of substantial financial commitments, competing economic interests, and potentially irreversible environmental consequences. Failure to address these problems may undermine the social function of land and weaken sustainable tourism development. Therefore, systematic legal research is strategically necessary to identify underlying risks and formulate preventive governance mechanisms that can subsequently be tested.

The Indonesian government has introduced various regulatory and administrative measures to strengthen land tenure security and improve investment-based tourism governance, including land registration reform, spatial utilization control, environmental approval procedures, and risk-based business licensing. Government Regulation Number 18 of 2021 strengthens the regulatory framework governing land rights and registration, while Government Regulation Number 21 of 2021 provides mechanisms for spatial planning implementation and control. Furthermore, Government Regulation Number 28 of 2025 establishes the framework for risk-based business licensing, whereas Law Number 18 of 2025 reinforces sustainability principles and community empowerment within tourism development. Although these measures provide a more comprehensive normative foundation, their practical effectiveness depends on institutional coordination, reliable land information, and substantive verification. Wardana et al. (2025) emphasize the need to reconsider land acquisition regulations for tourism village development in accordance

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with public-interest principles. Related scholarship also identifies tensions between land acquisition arrangements and community-based tourism objectives. These findings suggest that regulatory reform alone cannot guarantee effective coordination between land administration, investment licensing, environmental protection, and community participation. Consequently, the limitations of existing solutions establish the need for an integrated legal assurance framework that addresses land-related risks throughout the investment development process.

Contemporary scholarship on land governance in tourism investment demonstrates several interconnected research orientations, particularly concerning land ownership, the political economy of development, environmental sustainability, spatial governance, and institutional authority. Within the land ownership perspective, Sumarja et al. (2023) examine foreign land-control arrangements and their implications for the marginalization of local communities. From a political economy perspective, Meckelburg and Wardana (2024) investigate how expanding interpretations of public interest may facilitate land acquisition while intensifying conflicts over land access and control. Meanwhile, Wardana (2020) and Cole et al. (2021) emphasize the relationship between tourism expansion, agrarian transformation, and environmental resource pressures. In the institutional dimension, Wardana et al. (2025) analyze the limitations of existing land acquisition regulations for tourism village development, particularly concerning community-based tourism and public-interest principles. Wijaya et al. (2023) additionally examine spatial utilization control in tourism areas following changes to Indonesia's investment and development legislation. Collectively, these studies contribute important insights into the relationship between tourism investment, agrarian governance, and social justice. However, existing scholarship predominantly examines particular regulatory or socioeconomic dimensions separately, while the interconnected sequence of land occupation, acquisition, licensing, utilization, supervision, and dispute resolution remains insufficiently integrated within a comprehensive legal governance framework.

The principal research gap identified through the literature review concerns the limited integration of land tenure security, spatial conformity, environmental approval, and business licensing into a unified framework of legal assurance for investment-based tourism development. Sumarja et al. (2023) primarily investigate land ownership transfers and community marginalization, whereas Meckelburg and Wardana (2024) concentrate on the political economy of land acquisition and the contested interpretation of public interest. Similarly, Wardana et al. (2025) focus on reconstructing land acquisition regulations for tourism village development, while Wijaya et al. (2023) emphasize spatial utilization control. Although these studies provide significant theoretical and practical contributions, they do not specifically establish an integrated verification mechanism connecting the pre-acquisition stage, pre-construction requirements, and operational

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supervision within a single legal assurance model. Another gap concerns the insufficient distinction between documentary completeness, physical and juridical correspondence, and substantive legality of land utilization. Consequently, legal certainty is frequently assessed through individual administrative instruments rather than through the consistency of the entire governance process. The legal problem that cannot be resolved by examining each regime separately is whether a combination of individually valid instruments—a registered land right, a spatial conformity approval, an environmental approval, and a business licence—provides a lawful and defensible basis for a specific tourism use on a specific parcel at a specific time. Sectoral review asks whether each instrument was issued correctly by its competent authority; it does not ask whether the instruments refer to the same physical object, whether they rest on mutually consistent facts, or which authority must act when a defect in one layer undermines reliance on another. This study addresses these gaps by developing an integrated analytical framework capable of identifying legal risks early, coordinating institutional responsibilities, and balancing investment protection with community rights and environmental sustainability.

This research employs legal certainty theory, the social function of land rights, legal system theory, and sustainable resource governance as its principal theoretical foundations. The concept of the social function of land, as discussed by Harsono (2008) and Sumardjono (2008), emphasizes that land ownership and utilization involve not only individual entitlements but also obligations toward broader societal interests. Friedman's (1975) legal system theory explains legal effectiveness through three interconnected dimensions: legal substance, legal structure, and legal culture. This perspective is complemented by Soekanto (2008), who identifies legal norms, law enforcement institutions, supporting facilities, society, and culture as important determinants of effective legal implementation. Fuller (1969) further emphasizes consistency, clarity, and congruence between formally established rules and their practical administration. In the context of collective resource management, Ostrom (1990) highlights the significance of institutional arrangements, stakeholder participation, and monitoring mechanisms. These theoretical perspectives are relevant because land certificates and business permits cannot independently guarantee comprehensive legal certainty when institutional coordination, physical land conditions, and social interests remain unresolved. Accordingly, this integrated theoretical framework provides the conceptual basis for identifying legal inconsistencies, interpreting institutional relationships, and constructing a preventive model of land governance for sustainable tourism investment.

Four concepts that are often treated as synonymous need to be distinguished. Rights certainty (kepastian hak) concerns the determinacy of who holds which right over which parcel; in Indonesia a certificate is strong but not absolute evidence, because

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registration follows a negative publication system with positive tendencies and registered data remain open to challenge, subject to the limitation in Article 32(2) of Government Regulation 24/1997 (Parlindungan, 1999; Santoso, 2017). Tenure security, as used in this study, is narrower and refers to the holder's protection against losing lawful control. Use conformity (kesesuaian penggunaan) concerns whether a lawful holder may carry out a particular activity at that location, which is a spatial and environmental question rather than a question of title. Substantive justice concerns whether the distribution of land and its benefits is defensible, a question that Rawls (1999) frames through fair institutional arrangements and Sen (2009) through the comparative assessment of realisable outcomes. Social protection concerns the safeguards available to people whose livelihoods depend on access to land, water, or coastal space even where they hold no registered right. Legal certainty, in the operational sense adopted here, is the predictability of legal consequences when these questions are answered consistently by the competent authorities.

These concepts do not always reinforce one another. Strengthening rights certainty may entrench an acquisition whose fairness is contested, whereas recognising unregistered customary or livelihood interests may reduce the predictability that investors and lenders expect. Fuller's (1969) requirement of congruence between rules and official action favours stable and knowable rules, while the social function of land requires authorities to weigh competing interests that are not always codified. A further tension concerns administrative burden: additional verification can identify risks earlier, but it can also lengthen procedures, raise transaction costs, and disadvantage smaller investors, which sits uneasily with the simplification objective of risk-based licensing under Government Regulation 28/2025. Ostrom's (1990) emphasis on monitoring and participation must therefore be balanced against proportionality. This study treats these tensions as part of the analytical problem rather than assuming that more integrated procedures necessarily produce better protection.

The novelty of this research lies in developing the concept of layered legality and an integrated, stage-based legal assurance model for land governance in investment-based tourism development. Unlike Sumarja et al. (2023), who emphasize land ownership transfers and community marginalization, Meckelburg and Wardana (2024), who examine the political economy of land acquisition, and Wardana et al. (2025), who focus on regulatory reconstruction for tourism villages, this study integrates four distinct but interdependent dimensions of legality: land tenure, spatial conformity, environmental approval, and business licensing. Layered legality is not synonymous with cross-sector compliance. Cross-sector compliance is cumulative: it asks whether every required approval has been obtained. Layered legality is relational: it asks whether the instruments correspond to the same parcel, the same intended use, and the same period, and it holds that validity in one layer cannot cure a defect in another. The term therefore denotes an

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analytical framework selected for this study, not a claim that the four layers apply identically to every project. These dimensions are operationalized through a gated verification framework encompassing preliminary assessment before land acquisition, comprehensive compliance examination before construction, and continuing supervision during project operation. An additional conceptual contribution is the distinction between documentary certainty, objective certainty concerning land boundaries and occupation, and legal certainty regarding permitted land utilization. This distinction challenges approaches that equate administrative completeness with substantive legality. Theoretically, the study advances the understanding of legal certainty as an outcome of integrated governance rather than an attribute of individual legal documents. Practically, the proposed model offers a foundation for interinstitutional coordination procedures, legal due diligence, participatory mapping, risk-based supervision, and community protection mechanisms supporting equitable and sustainable tourism investment.

This study aims to analyze land-related legal problems in investment-based tourism development in Indonesia and formulate an integrated legal assurance framework intended to strengthen land tenure security while protecting spatial conformity, environmental sustainability, and local community interests. Specifically, the research addresses three central questions: why land-related legal problems persist despite an increasingly comprehensive regulatory framework; how the applicable legal requirements relate to one another and to the practice problems documented in published studies; and how an integrated assurance framework could be specified so that legal risks are identified earlier in the investment cycle. The study adopts normative legal research combining statutory, conceptual, and case approaches, supported by a socio-legal orientation in examining documented institutional practices. Its analysis focuses on relationships among agrarian law, spatial planning, environmental protection, investment regulation, and tourism legislation, including relevant regulatory reforms introduced in 2025. The expected output is a legal framework that could support institutional coordination, substantive verification, legally grounded community participation, and transparent decision-making, subject to subsequent empirical and administrative testing.

METODE PENELITIAN

The unit of analysis in this study is the legal and institutional framework governing land tenure in investment-based tourism development in Indonesia, rather than individual respondents or a statistically defined population. The inquiry focuses on the relationship between land rights, spatial conformity, environmental approval, and risk-based business licensing throughout acquisition, construction, operation, supervision, and dispute resolution. Its principal objects are legal norms, administrative responsibilities, documentary requirements, and judicial interpretations affecting the security and social

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function of land. Particular attention is given to Law 5/1960 on Basic Agrarian Principles, Law 10/2009 on Tourism as amended by Law 18/2025, Government Regulations 18/2021, 21/2021, 22/2021, 28/2025, and 48/2025, and relevant implementing instruments. Constitutional Court Decisions 21–22/PUU-V/2007, 35/PUU-X/2012, and 91/PUU-XVIII/2020 provide authoritative interpretive units concerning state control, customary rights, and meaningful participation. Published accounts of tourism-related land disputes supply contextual illustrations without being treated as original field observations. This delimitation permits a systematic assessment of whether separate regulatory layers operate coherently and whether documentary legality adequately protects investors and affected communities (Taekema, 2021; Meckelburg & Wardana, 2024).

The research employs a qualitative, normative-doctrinal legal design with a socio-legal orientation in interpreting documented institutional practices. It combines statutory, conceptual, and case approaches because the central question concerns not merely the existence of regulations but their consistency, interaction, and practical implications. The statutory approach examines the hierarchy, operative provisions, amendments, repeals, and transitional rules of legislation on agrarian affairs, spatial planning, environmental management, investment, licensing, and tourism. The conceptual approach develops criteria from the state's right of control, the social function of land, legal certainty, legal protection, legal system theory, and sustainable tourism. The case approach interprets the reasoning and legal significance of the three specified Constitutional Court decisions. Socio-legal scholarship is used to contextualise doctrinal findings, not to convert the study into empirical fieldwork or mixed-method research. This design is appropriate for identifying normative gaps and proposing an integrated, preventive assurance framework. It also maintains the distinction between what binding law requires, what published studies report, and what the authors recommend as institutional reform (Nurhayati et al., 2021; van Gestel, 2023; Choudhary, 2024).

All research evidence consists of documentary legal materials; no primary interview, survey, observation, or focus-group dataset is claimed. Primary legal materials, in the doctrinal sense, include the Constitution, statutes, government and ministerial regulations, relevant spatial-planning instruments, and Constitutional Court judgments. Secondary legal materials include scholarly monographs, peer-reviewed articles, research reports, and policy publications concerning land governance and tourism. Tertiary resources, such as legal indexes and official regulatory catalogues, assist source identification and cross-checking. Sources are selected purposively according to their legal authority, substantive relevance to tourism-related land governance, temporal applicability, and ability to illuminate intersections among regulatory regimes; the corpus is not presented as a statistically representative sample. Constitutional Court decisions were selected according to three criteria: (a) the decision is final and binding with erga omnes effect; (b) its ratio

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decidendi addresses one of the study's dimensions, namely the state's right of control over land rights granted for investment, the constitutional status of customary communities, or the standard of public participation; and (c) its reasoning remains authoritative and has not been displaced by a later decision. Three decisions met these criteria. Supreme Court and administrative court judgments on individual land disputes were not included because they turn on case-specific facts; this exclusion is a limitation of the corpus. Existing studies by Cole et al. (2021), Sumarja et al. (2023), Meckelburg and Wardana (2024), and Wardana et al. (2025) provide documented contexts for interpreting the consequences of regulatory fragmentation. Table 1 lists the complete corpus examined and the function of each category in the analysis (McConville & Chui, 2024).

Table 1. Research corpus examined

Category	Items examined	Function in the analysis
Constitution	1945 Constitution, Articles 18B(2) and 33(3)	Basis of state control and recognition of customary communities
Statutes	Law 5/1960; Law 25/2007; Law 26/2007; Law 10/2009 as amended by Law 18/2025; Law 32/2009; Law 2/2012; Law 30/2014; Law 6/2023	Binding primary law for each legality layer and for administrative review
Government and ministerial regulations	GR 24/1997; GR 18/2021; GR 21/2021; GR 22/2021; GR 28/2025; GR 48/2025; MoT Reg 6/2025	Operative procedures, instruments, and competent authorities
Court decisions	Constitutional Court Decisions 21–22/PUU-V/2007, 35/PUU-X/2012, and 91/PUU-XVIII/2020	Authoritative interpretation (see selection criteria)
Empirical and socio-legal studies	Cole et al. (2021); Meckelburg & Wardana (2024); Sumarja et al. (2023); Wardana (2019, 2020); Wardana et al. (2025); Warren & Wardana (2018); Wijaya et al. (2023)	Documented context; not treated as findings of this study
Theory and legal doctrine	Arnstein (1969); Friedman (1975); Fuller (1969); Harsono (2008); Moore (2014); Ostrom (1990); Parlindungan (1999); Rawls (1999); Santoso (2017); Sen (2009); Soekanto (2008); Sumardjono (2008); Tosun (2000)	Conceptual criteria and interpretive framework
Research	Choudhary (2024); McConville & Chui (2024);	Justification of the

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methodology	Nurhayati et al. (2021); Taekema (2021); van Gestel (2023)	research design
International standards (non-binding)	IFC (2012); United Nations (2011); World Bank (2018)	Comparative benchmarks only; not obligations under Indonesian law

Materials were assembled through desk-based legal research and documentary examination rather than direct field data collection. The process began by identifying the governing legal issues and creating a source inventory for tenure, spatial planning, environmental approval, tourism investment, and business licensing. Next, relevant provisions and judgments were retrieved from official legal repositories and authoritative publications, while academic studies were identified through bibliographic and journal searches. Each item was logged by title, issuing authority or author, year, legal status, topic, and relevance to the research questions. The provisions were then read alongside amendment and transitional clauses to distinguish currently applicable rules from superseded arrangements. Judicial reasoning was recorded in structured case notes, and reported social or institutional problems were extracted into a thematic evidence table with attribution to their published sources. A documentary review matrix connects legal norms, responsible institutions, required documents, project phases, and possible points of conflict. Legislation was verified against the official legal databases of the Audit Board (peraturan.bpk.go.id) and the State Secretariat (jdih.setneg.go.id), and Constitutional Court decisions against the Court's official website (mkri.id). The final search was conducted on [insert date of final search]; instruments enacted or amended after that date are not covered (Taekema, 2021; McConville & Chui, 2024).

The case approach focused on the reasoning of each decision rather than its outcome alone. In Decision 21–22/PUU-V/2007, the Court reviewed Article 22 of Law 25/2007, which allowed land rights for investment to be granted and extended in advance at once for up to 95 years for Hak Guna Usaha, 80 years for Hak Guna Bangunan, and 70 years for Hak Pakai; it held the advance-extension mechanism unconstitutional because it reduced the state's capacity to evaluate and control land use under Article 33(3) of the Constitution. In Decision 35/PUU-X/2012, the Court reviewed the Forestry Law and held that customary forest is not state forest, recognising customary law communities as rights-bearing subjects while leaving their recognition subject to the conditions in Article 18B(2). In Decision 91/PUU-XVIII/2020, the Court held the Job Creation Law formally defective and conditionally unconstitutional, describing meaningful participation as the right to be heard, the right to have one's views considered, and the right to receive an explanation. The first two decisions bear directly on the tenure layer; the third concerns lawmaking and

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is used only as an analogy for project-level participation. The same caution is applied to every source that is transposed beyond its original context.

Each decision was recorded in a structured case note with six fields: legal issue, norm reviewed, holding, ratio decidendi, relevance to a legality layer, and limits of transposition. For example, the note for Decision 35/PUU-X/2012 records the issue as the classification of customary forest; the holding that customary forest is not state forest; the ratio that customary law communities are constitutional rights-bearing subjects; the relevance that interests absent from the land register may still be legally significant at the pre-acquisition stage; and the limit that the decision concerns forest areas and conditions recognition on formal acknowledgement, so it cannot be read as automatically validating every customary claim over tourism land.

Materials that did not support the initial framework were recorded and used to narrow its claims. The reviewed instruments already establish partial sequencing: under the risk-based licensing regime, spatial conformity approval and environmental approval function as basic requirements for business licensing (Government Regulations 21/2021, 22/2021, and 28/2025). This counter-evidence showed that the gap is not an absence of sequencing as such, but the absence of a mechanism that checks whether these documents correspond to the same physically occupied parcel and whether unregistered interests have been identified. Likewise, studies documenting conflict in particular locations were not treated as evidence that the same problems occur everywhere; context-specific reports were recorded as illustrations rather than general findings (van Gestel, 2023; Choudhary, 2024).

Analysis proceeds through source verification, classification, interpretation, synthesis, and normative legal construction. First, legal instruments are checked for authority, temporal validity, amendments, and relevance. Second, provisions and published findings are grouped under tenure, spatial conformity, environmental approval, business licensing, community participation, and institutional supervision. Third, grammatical, systematic, teleological, and historical interpretation clarifies each instrument's meaning and purpose. Vertical synchronisation evaluates conformity between lower and higher legal norms; horizontal synchronisation examines consistency across agrarian, spatial, environmental, investment, and tourism regimes. Apparent conflicts are assessed through applicable principles of legal preference while accounting for institutional competence and procedural safeguards. Findings are displayed in a regulatory matrix specifying norms, obligations, actors, documents, project stages, and conflict risks. The resulting synthesis informs a proposed gated assurance model for verification before acquisition, before construction, and during operation. Trustworthiness is supported by triangulating legislation, judgments, and independently published scholarship, maintaining traceable source attribution, and explicitly separating binding

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doctrine, secondary accounts, and prescriptive proposals. Because the study is doctrinal, the framework requires subsequent empirical validation rather than claims of measured effectiveness (van Gestel, 2023; Choudhary, 2024)

HASIL DAN DISKUSI

Four layers of legality

The documentary inventory identifies four separate regulatory layers applicable to land used for investment-based tourism in Indonesia. These four layers are an analytical selection made for this study because they recur across the reviewed instruments; they are not an exhaustive list of requirements, and they do not apply identically to every project. The tenure layer concerns the identity of the rights holder, the parcel, the duration of the right, and its registered status under Law 5/1960 and Government Regulation 18/2021. The spatial layer concerns the permitted location, scale, and intensity of proposed activities under Law 26/2007 and Government Regulation 21/2021. The environmental layer concerns impact assessment, environmental approval, management, and monitoring under Law 32/2009 and Government Regulation 22/2021. The business layer concerns authorisation to undertake and operate a tourism enterprise under Government Regulation 28/2025 and Minister of Tourism Regulation 6/2025. Law 18/2025 also links tourism development to sustainability, community welfare, and spatial plans. Each layer has a different administrative instrument and responsible authority. The reviewed regulations do not state that registration of a land right replaces spatial conformity, environmental approval, or business licensing. Table 2 records the instruments and distinct administrative questions examined in the documentary review.

The documents distinguish the legal status of a parcel from the approval of a proposed economic activity on that parcel. A land certificate identifies a registered right and its subject and object, while spatial conformity concerns whether a particular use is permitted at a specified location. Environmental approval addresses anticipated effects and the obligations attached to them. Business licensing records the legal requirements applicable to the operator and the activity. The regulations provide different procedures for these purposes, with separate competent offices and records. Government Regulation 18/2021 deals with land rights and registration; Government Regulation 21/2021 addresses spatial planning; Government Regulation 22/2021 addresses environmental protection and management; and Government Regulation 28/2025 addresses risk-based business licensing. The 2025 tourism amendment supplies sectoral direction but does not eliminate these separate requirements. The documentary comparison records no general provision allowing one of these instruments to serve automatically as proof of compliance with every other regime. These descriptions concern the content and relationship of the

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reviewed legal materials rather than the actual compliance status of individual tourism projects.

Three recurring patterns appear in the regulatory comparison. First, the four legal layers address different questions: lawful control of land, conformity of the intended use, environmental obligations, and authority to operate a business. Second, documentary evidence is issued and maintained through different institutional procedures, even when the same location is involved. Third, the instruments refer to different objects of administration, including registered parcels, spatial zones, environmental impact areas, and licensed business locations. A fourth pattern concerns changes in the legal framework: land registration, spatial planning, and environmental administration were addressed in 2021 regulations, while tourism and business licensing were revised in 2025. The comparison therefore contains instruments adopted at different times and for different regulatory functions. These patterns are recorded in the legal matrix without treating a difference in administrative function as evidence of misconduct or failure. The materials examined establish requirements and institutional responsibilities; they do not supply project-level statistics about the frequency of disputes, erroneous certificates, or noncompliant permits.

The content of each layer varies with the type of activity, its risk level, its location, and the form of land control. Under the risk-based licensing regime, the risk classification of a tourism activity determines whether a business identification number alone, a standard certificate, or a licence is required (Government Regulation 28/2025). Environmental documentation likewise ranges from an environmental impact assessment (AMDAL) for activities with significant impacts, to UKL-UPL documents, to a statement of environmental management capability (SPPL) for low-impact activities (Government Regulation 22/2021). Location adds further requirements: coastal and marine use, protected or forest areas, and areas claimed as customary territory engage additional regimes and authorities. The form of tenure also matters: Hak Milik is reserved for Indonesian citizens; Hak Guna Bangunan is available to citizens and Indonesian legal entities; Hak Pakai is also available to eligible foreigners; rights granted over Hak Pengelolaan land depend on an agreement with the holder of that right; and leases of village land are governed by village asset rules. The framework should therefore be applied proportionately: a small homestay on registered private land does not warrant the same verification intensity as a large resort on coastal land subject to competing claims.

Table 2. Regulatory layers **identified in the documentary review**

Layer	Main instrument	Administrative question
Tenure	GR 18/2021	Who holds rights over the parcel?
Spatial conformity	GR 21/2021	Is the intended activity

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		permitted here?
Environmental approval	GR 22/2021	What impacts and obligations apply?
Business licensing	GR 28/2025; MoT Reg 6/2025	May the business operate?

Categories of land-governance problems

The second finding concerns categories of land-related problems drawn from two sources that are kept distinct: problems reported in the cited studies and categories added through the authors' own documentary comparison. The reviewed material records disputed ownership histories, inheritance claims, uncertain boundaries, overlapping documentary and physical occupation, indirect control arrangements, acquisition and transfer difficulties, spatial nonconformity, incomplete licensing alignment, community access restrictions, and post-licensing monitoring issues. Sumarja et al. (2023) report land-control arrangements and marginalisation in a tourism area of Lampung. Cole et al. (2021) examine tourism development and water-resource pressures in Bali. Wardana (2020) addresses agrarian changes affecting Bali's cultural landscape. Meckelburg and Wardana (2024) discuss land acquisition for development in the public interest, while Wardana et al. (2025) examine legal limits on land acquisition for tourism villages. Wijaya et al. (2023) address control of spatial utilisation in tourism areas. These publications concern different settings and legal questions. Their reported observations are secondary evidence; the present research did not independently visit those locations or interview the affected residents.

The reported categories can be described according to the stage of tourism development to which they relate. Before acquisition, the reviewed materials refer to land histories, competing claims, inheritance, customary interests, boundaries, and information about the intended use. During acquisition and transfer, the categories include the legal form of transactions, intermediary involvement, consent, powers of attorney, and restrictions on eligible holders. At planning and approval stages, the materials refer to the correspondence between land records, zoning, environmental obligations, and licensing documents. During construction and operation, the categories include changes in land use, public access, water resources, supervision, and complaints. The authors' documentary comparison also identifies administrative differences between parcel identifiers, zoning polygons, business locations, and environmental impact areas. The secondary studies cited here document selected aspects of these categories, rather than a common survey covering all categories in one location. No numerical prevalence, representative sample, or comparative project score is available from the doctrinal dataset examined here.

Four descriptive tendencies are recorded across the documentary sources. The first is diversity of land evidence, including registered titles, earlier documentary claims,

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customary occupation, village assets, and inherited land. The second is the coexistence of land-related questions with spatial, environmental, and licensing requirements in the same development sequence. The third is the presence of community interests that may not appear in title documentation, such as access routes, water sources, livelihood spaces, and shared facilities. The fourth is the continuation of regulatory duties after approval, including compliance monitoring and the treatment of unused land or concessions. Government Regulation 48/2025 addresses abandoned areas and land, while Law 18/2025 addresses sustainable and community-related tourism objectives. The reviewed literature supplies examples involving tourism, land acquisition, and environmental pressure (Cole et al., 2021; Sumarja et al., 2023; Meckelburg & Wardana, 2024). These are patterns in the assembled texts, not estimates of how often each issue occurs across Indonesia. The available materials do not permit a causal or statistical ranking of the categories. Table 3 attributes each category to its source and legal basis, distinguishing categories reported in the literature from those added through the authors' documentary comparison.

Table 3. Matrix of land-governance risk categories, sources, legal basis, and implications

Risk category	Source (L = literature; A = authors' analysis)	Legal basis	Implication for the framework
Indirect or nominee control; restrictions on eligible holders	L: Sumarja et al. (2023)	Law 5/1960, Arts. 21 and 26(2)	Formal title may conceal unlawful control; the tenure check should examine actual control
Contested acquisition and public-interest classification	L: Meckelburg & Wardana (2024); Wardana et al. (2025)	Law 2/2012 as amended by Law 6/2023	Acquisition route and village institutional limits must be identified before acquisition
Ownership history, inheritance, and boundary uncertainty	A: documentary comparison	Law 5/1960, Art. 19; GR 24/1997, Art. 32; GR 18/2021	A certificate is strong but rebuttable evidence; history and boundaries are checked before acquisition
Spatial nonconformity of the intended use	L: Wijaya et al. (2023)	Law 26/2007 as amended; GR 21/2021	A valid land right does not authorise the use; the spatial check precedes design
Environmental pressure, water	L: Cole et al. (2021); Warren & Wardana	Law 32/2009 as amended; GR	Approval conditions require monitoring

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resources, and weak impact assessment	(2018)	22/2021	during operation
Agrarian and cultural landscape change; community access and livelihoods	L: Wardana (2019, 2020)	Law 5/1960, Art. 6; Law 10/2009 as amended by Law 18/2025	Interests not recorded in title documents require social mapping
Unregistered customary interests	A: based on Decision 35/PUU-X/2012	Constitution, Art. 18B(2); Decision 35/PUU-X/2012	Customary claims require verification of recognition status, not automatic acceptance
Mismatch of parcel, zoning, business, and impact-area identifiers	A: documentary comparison	GR 18/2021; GR 21/2021; GR 22/2021; GR 28/2025	Instruments should be cross-referenced to a common spatial identifier
Underuse and supervision after approval	A: documentary comparison	GR 48/2025; GR 28/2025	Assurance continues after licensing; abandonment may lead to loss of the right or concession

Proposed gated assurance framework

The third documentary finding is a proposed sequence of assurance checkpoints developed by the authors from the legal analysis. Its first checkpoint precedes land acquisition and calls for a project concept, location coordinates, comparison of land and spatial records, environmental screening, and preliminary mapping of social interests. Its second checkpoint precedes construction and lists tenure control, spatial conformity, environmental approval, relevant business documents, public access arrangements, and a complaint mechanism. Its third checkpoint covers construction and operation through conformity audits, monitoring of resources and capacity, records of complaints, and updates to relevant ownership information. The framework associates each checkpoint with a documented decision: suitable, conditional, unsuitable, or insufficient information at initial screening; proceed, remedy, or stop before construction; and continue, correct, or sanction during operation. These items are presented as components of an analytical model, not as procedures observed in a completed field pilot. Table 4 sets out the three stages and their minimum documentary requirements.

At the pre-acquisition stage, the proposed records include project purpose, expected land area, intended capacity, infrastructure needs, access requirements, and the location of

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relevant parcels. The suggested comparison covers land status, spatial allocation, environmental sensitivity, public assets, and community uses. During acquisition, a parcel register would include the rights holder, occupant, area, boundaries, legal basis, transaction status, and complaints. Before construction, the model lists final site plans, documentary conformity checks, environmental obligations, business approvals, and recorded responses to community concerns. During operation, the proposed record includes changes in actual use, resource consumption, complaint handling, and annual conformity review. The documentary dataset contains these specified fields and decision points, but it does not contain completed registers, audited project files, inspection results, or measured outcomes from implementation. The model is therefore reported as a documentary output of the legal analysis. No claim is made that a particular government office or investor has adopted or successfully tested every proposed procedure.

The reviewed materials yield four summary observations about the proposed framework. First, the sequence begins before acquisition rather than after a dispute has emerged. Second, it separates the checks required for land acquisition, construction, and continuing operation. Third, each checkpoint calls for a recorded status and supporting documents instead of an undifferentiated statement of project legality. Fourth, the model includes both formal administrative requirements and information about access, community interests, and complaints. The framework proposes process indicators, such as verification time and the number of unresolved documentary discrepancies, and outcome indicators, such as disputes, spatial compliance, environmental conditions, and continued public access. These are proposed indicators, not measured results. The documentary results establish the existence of distinct regulatory layers, a catalogue of risks described in secondary sources, and a staged assurance design. They do not establish the effectiveness, cost, or generalisability of that design. Such questions remain for subsequent empirical evaluation in selected tourism investment locations.

Decisions recorded as “unsuitable”, “stop”, or “sanction” require a review mechanism because they affect legal interests, and the framework distinguishes their legal character. A pre-acquisition “unsuitable” status is a screening opinion that informs the investor and the authorities; it does not itself refuse a right or licence. By contrast, a refusal of spatial conformity, environmental approval, or a licence, an order to stop construction, and an administrative sanction are decisions of competent officials. Under Law 30/2014 on Government Administration, such decisions must state their legal and factual reasons, and affected parties may file an administrative objection with the issuing official and an administrative appeal to the superior official before bringing a claim to the State Administrative Court. Administrative sanctions in risk-based licensing are graduated, ranging from written warnings to temporary suspension and revocation (Government Regulation 28/2025). Disputes between investors and community members over access or

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compensation that do not concern the validity of an administrative decision may be addressed through mediation, which Moore (2014) describes as a structured process for negotiating interests rather than adjudicating rights. Recording the reasons, evidence, and review route for each decision is therefore part of the framework rather than an optional addition.

Table 4. Proposed checkpoints **(analytical model, not pilot results)**

Checkpoint	Minimum evidence	Documented decision
Before acquisition	Concept, map overlays, preliminary social mapping	Suitable / conditional / unsuitable / insufficient data
Before construction	Tenure, spatial and environmental compliance, licensing, access and grievance plans	Proceed / remedy / stop
During operation	Conformity audit, resource and complaint monitoring	Continue / correct / sanction

Discussion

This study examined why land-related legal uncertainty may persist within Indonesia's investment-based tourism development despite an extensive regulatory framework, and how a preventive governance model could be specified. The documentary results identify four distinct legal layers, a set of recurring land-governance issues described in prior scholarship, and a three-checkpoint assurance design. Read together, these findings shift attention from the number of permits issued to the correspondence among land status, spatial allocation, environmental obligations, business authorisation, and social uses of land. The argument is doctrinal rather than statistical: the sources show what each regime requires and how its responsibilities are distributed, but do not measure the national incidence of noncompliance. The principal contribution is therefore an integrated account of legality across the life cycle of a tourism project. This account also clarifies the distinction between documentary certainty, objective certainty concerning parcels and occupation, and use certainty concerning permitted activities. The following discussion places these categories in dialogue with legal-system theory and contemporary research on tourism-related land governance.

The separation of legal layers helps explain why administrative completeness cannot by itself establish substantive security. Friedman's (1975) legal-system framework distinguishes legal substance, institutional structure, and legal culture; the present analysis suggests that a project may satisfy one documentary procedure while remaining exposed to unresolved questions administered elsewhere. Soekanto (2008) similarly directs attention to law, enforcement personnel, facilities, society, and culture, while Fuller (1969) emphasises congruence between announced rules and official action. Applied to the

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reviewed regulatory matrix, these perspectives explain how different authorities can each complete their own task without producing a unified assessment of the same parcel. Geospatial mismatches and information asymmetries may further obstruct cross-checking, particularly where social access or customary interests are absent from formal datasets. The mechanism proposed here is cumulative: an unresolved issue can pass from acquisition into licensing and construction, while later investment increases the practical cost of correction. This is an analytical explanation derived from the relationships among legal instruments and reported studies, not a causal effect measured through interviews or field observation.

The findings align with several strands of recent scholarship while extending their scope. Sumarja et al. (2023) document forms of foreign land control and local marginalisation in Lampung; the present analysis locates such concerns within the wider sequence of acquisition, registration, licensing, and supervision. Meckelburg and Wardana (2024) show tensions surrounding acquisition for development in the public interest; this study adds a cross-regime account of how acquisition interacts with spatial and environmental approval. Wardana et al. (2025) identify limits on village institutions in tourism land acquisition, which complements the emphasis here on community information and institutional competence. Cole et al. (2021) connect tourism development with Bali's water crisis, while Wardana (2020) analyses changes in agrarian cultural landscapes. Warren and Wardana (2018) show how environmental impact assessment in Bali has struggled to restrain overdevelopment, and Wardana (2019) situates these conflicts within the contested governance of space. Wijaya et al. (2023) examine spatial-use control after legislative reform. Unlike these issue-specific studies, the present contribution treats tenure, spatial conformity, environmental approval, and licensing as jointly necessary but legally distinct. The difference is primarily analytical breadth, not a claim to superior empirical coverage or proof that the proposed model already works.

The findings also illuminate the meaning of land tenure certainty in a setting where land simultaneously serves economic, ecological, cultural, and social purposes. Article 33(3) of the Indonesian Constitution and the Basic Agrarian Law place land governance within a public mandate, while Harsono (2008) and Sumardjono (2008) emphasise the structure and social dimensions of agrarian rights. The Constitutional Court's Decision 21–22/PUU-V/2007 affirms continuing state oversight, and Decision 35/PUU-X/2012 concerns recognition of customary communities and their territories. These principles suggest that a certificate cannot exhaust the normative meaning of secure land governance. Arnstein's (1969) participation framework and Tosun's (2000) analysis of barriers to community participation further highlight the difference between formal consultation and meaningful influence. Decision 91/PUU-XVIII/2020 provides a relevant standard of meaningful participation in lawmaking, though its application to project

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administration is an analogy rather than a direct holding. The broader interpretation is that legal certainty must be assessed alongside participation, livelihood protection, environmental capacity, and accountability, rather than reduced to transactional documentation.

The proposed assurance framework has several implications for doctrine and practice. Theoretically, it treats legal certainty as a relationship among legal instruments, institutional actions, physical conditions, and affected interests, rather than a property of a single certificate. Practically, it suggests that discrepancies should be identified while project design and acquisition choices remain reversible. Such a preventive orientation is consistent with the environmental and social safeguards of the International Finance Corporation (2012), the World Bank's Environmental and Social Standard 5 (2018), and the United Nations Guiding Principles on Business and Human Rights (2011). These instruments are non-binding standards: they do not create obligations under Indonesian law and become operative only where they are incorporated into financing agreements, corporate policies, or national regulation. They are used here as comparative benchmarks, not as legal requirements. It also resonates with Ostrom's (1990) attention to institutional arrangements and collective resource governance. Important limits remain: the study does not estimate administrative costs, test data interoperability, assess actual consultation quality, or compare outcomes before and after implementation. Additional checks may also create delays or exclude smaller investors unless proportionate and transparent. The framework should therefore be understood as a testable policy design requiring legal safeguards, operational evaluation, and locally appropriate participation mechanisms.

A realistic implementation pathway would begin with a limited pilot in selected investment-based tourism areas, subject to the authority of existing institutions. Regional government could coordinate a shared case register while land offices verify tenure records, spatial agencies check location conformity, environmental agencies assess approval conditions, and licensing offices track business requirements. Village administrations and affected communities should contribute verified information about access routes, customary interests, water sources, and livelihoods without being asked to adjudicate ownership disputes. At the first checkpoint, the pilot would document location risks before acquisition; at the second, it would confirm essential approvals and complaint arrangements before construction; at the third, it would review actual use, complaints, and environmental commitments during operation. Standard operating procedures should identify responsible officers, review deadlines, escalation rules, correction procedures, and privacy safeguards. Independent evaluation should compare verification times, unresolved claims, public access, compliance, and dispute outcomes against a baseline. No new licence should be created merely to implement the model. Findings from the pilot

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could then guide procedural revision or, where necessary, national regulatory coordination.

KESIMPULAN

The most important lesson of this study is that legal certainty in investment-based tourism land governance cannot be secured through the completeness of a land certificate or business licence alone. The examination of Indonesia's agrarian, spatial planning, environmental, investment, and tourism frameworks indicates that legality can be analysed as interconnected but distinct requirements: lawful tenure, spatial conformity, environmental approval, and business licensing. Each requirement addresses a different legal question, and compliance with one cannot remedy deficiencies in another. The land-related disputes reported in prior studies are consistent with a governance challenge in which regulatory instruments may be formally available while the information, institutional coordination, and verification procedures needed to implement them remain fragmented. The central insight is that legal certainty should be understood as a continuing condition of accountable governance rather than a status conferred by an individual administrative document. Consequently, the reform priority suggested by this analysis is not simply accelerating permit issuance but ensuring, as far as practicable, that material risks, competing claims, environmental obligations, and community interests are identified before land acquisition and construction create costly and potentially irreversible consequences.

The principal strength of this research lies in its integrated doctrinal approach, which examines land governance across regulatory regimes that are frequently analysed separately. By combining statutory interpretation, conceptual analysis, and relevant Constitutional Court decisions, the study develops a four-layer conception of legality and distinguishes documentary certainty, objective certainty, and use certainty as complementary dimensions of investment security. The conceptual contribution lies in specifying how these dimensions relate. Documentary certainty is necessary but insufficient for objective certainty, because a registered right has legal effect only for the parcel actually identified and occupied; objective certainty is in turn a precondition for use certainty, because spatial and environmental approvals presuppose a correctly identified parcel. Legal certainty is therefore relational, since a defect at an earlier level is carried into later approvals, rather than an attribute of any single document. This relational account, rather than the checklist itself, is what refines conventional legal certainty theory. The research also contributes a structured classification of legal vulnerabilities arising from land history, overlapping boundaries, defective transfers, indirect control, spatial incompatibility, licensing disconnection, community marginalisation, and inadequate supervision. Separately from this conceptual claim, the study offers a procedural

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recommendation: a gated assurance framework that connects preventive verification, participatory mapping, accountable acquisition, pre-construction compliance, and risk-based operational monitoring. Rather than proposing another licensing requirement, the framework reorganises existing institutional responsibilities into identifiable decision points supported by auditable evidence. This recommendation offers a basis for regulatory evaluation and future empirical study; whether it prevents disputes or balances investment certainty, social justice, and environmental sustainability has not been evaluated and should not be presumed.

The framework can operate only under certain conditions. It presupposes accessible and interoperable land, spatial, environmental, and licensing records; officials with clear authority to record and act on discrepancies; and a proportionate scope that reserves intensive verification for higher-risk activities and locations. Its coordinating capacity is also limited: regional governments cannot direct land offices, which are vertical institutions of the national land agency, and no single authority currently has the legal competence to suspend instruments issued by another. Without a legal basis for joint review, the framework can improve information exchange but cannot compel correction. Its time, cost, and burden on applicants also require administrative testing before any wider adoption.

Despite its conceptual and practical contributions, this study has several limitations arising from its normative legal design and documentary evidence base. First, it does not include primary fieldwork, such as interviews with landholders, investors, public officials, or affected communities, and therefore cannot establish the frequency, geographical distribution, or lived consequences of the identified governance problems. Second, the proposed gated assurance framework has not been implemented or evaluated in actual tourism investment projects, leaving its administrative feasibility, financial costs, institutional acceptance, and effectiveness in preventing disputes untested. Third, although the analysis considers the regulatory reforms introduced in 2025, it cannot determine how consistently these provisions are implemented across regions with different land histories, institutional capacities, and environmental conditions. Future research should therefore undertake comparative socio-legal case studies in coastal, rural, and heritage tourism destinations that include cases both supporting and challenging the assumption that integrated procedures produce better protection, for example projects where sectoral review alone prevented harm, or where additional checks caused delay without improving outcomes. Such studies should combine document verification, geospatial analysis, stakeholder interviews, participatory mapping, and longitudinal monitoring to evaluate whether integrated assurance improves tenure security, regulatory compliance, community participation, and equitable benefit distribution.

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DAFTAR PUSTAKA

1) Arnstein, S. R. (1969). A ladder of citizen participation. Journal of the American Institute of Planners, 35(4), 216–224.
2) Choudhary, K. (2024). Which method should I select for my legal research – doctrinal, empirical, multi-method or something else? Teisė, 132, 135–144. https://doi.org/10.15388/Teise.2024.132.10
3) Cole, S., Wardana, A., & Dharmiasih, W. (2021). Making an impact on Bali's water crisis: Research to mobilize NGOs, the tourism industry and policy makers. Annals of Tourism Research, 87, Article 103119.
4) Constitution of the Republic of Indonesia of 1945 [Undang-Undang Dasar Negara Republik Indonesia Tahun 1945], as amended for the fourth time in 2002.
5) Constitutional Court of the Republic of Indonesia. (2008). Decision No. 21–22/PUU-V/2007 on the judicial review of Law No. 25 of 2007 on Investment. https://www.mkri.id
6) Constitutional Court of the Republic of Indonesia. (2013). Decision No. 35/PUU-X/2012 on the judicial review of Law No. 41 of 1999 on Forestry. https://www.mkri.id
7) Constitutional Court of the Republic of Indonesia. (2021). Decision No. 91/PUU-XVIII/2020 on the formal review of Law No. 11 of 2020 on Job Creation. https://www.mkri.id
8) Friedman, L. M. (1975). The legal system: A social science perspective. Russell Sage Foundation.
9) Fuller, L. L. (1969). The morality of law (Rev. ed.). Yale University Press.
10) Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Condominium Units, and Land Registration [Peraturan Pemerintah Nomor 18 Tahun 2021 tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, dan Pendaftaran Tanah].
11) Government Regulation No. 21 of 2021 on the Implementation of Spatial Planning [Peraturan Pemerintah Nomor 21 Tahun 2021 tentang Penyelenggaraan Penataan Ruang].
12) Government Regulation No. 22 of 2021 on the Implementation of Environmental Protection and Management [Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup].
13) Government Regulation No. 24 of 1997 on Land Registration [Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah], partially amended by Government Regulation No. 18 of 2021.
14) Government Regulation No. 28 of 2025 on the Implementation of Risk-Based Business Licensing [Peraturan Pemerintah Nomor 28 Tahun 2025 tentang Penyelenggaraan Perizinan Berusaha Berbasis Risiko], revoking Government Regulation No. 5 of 2021.
15) Government Regulation No. 48 of 2025 on the Control of Abandoned Areas and Land [Peraturan Pemerintah Nomor 48 Tahun 2025 tentang Penertiban Kawasan dan

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Tanah Telantar] (State Gazette 2025 No. 182), revoking Government Regulation No. 20 of 2021. https://peraturan.bpk.go.id/Details/343426/pp-no-48-tahun-2025
16) Harsono, B. (2008). Hukum agraria Indonesia: Sejarah pembentukan Undang-Undang Pokok Agraria, isi dan pelaksanaannya (Ed. revisi). Djambatan.
17) International Finance Corporation. (2012). Performance standards on environmental and social sustainability. IFC.
18) Law No. 10 of 2009 on Tourism [Undang-Undang Nomor 10 Tahun 2009 tentang Kepariwisataan], as last amended by Law No. 18 of 2025 on the Third Amendment to Law No. 10 of 2009 on Tourism (State Gazette 2025 No. 180), in force since 29 October 2025. https://peraturan.bpk.go.id/Details/334481/uu-no-18-tahun-2025
19) Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest [Undang-Undang Nomor 2 Tahun 2012 tentang Pengadaan Tanah bagi Pembangunan untuk Kepentingan Umum], as last amended by Law No. 6 of 2023.
20) Law No. 25 of 2007 on Investment [Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal], as last amended by Law No. 6 of 2023.
21) Law No. 26 of 2007 on Spatial Planning [Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang], as last amended by Law No. 6 of 2023.
22) Law No. 30 of 2014 on Government Administration [Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan], as last amended by Law No. 6 of 2023.
23) Law No. 32 of 2009 on Environmental Protection and Management [Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup], as last amended by Law No. 6 of 2023.
24) Law No. 5 of 1960 on Basic Agrarian Principles [Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria].
25) Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation as Law [Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang].
26) McConville, M., & Chui, W. H. (Eds.). (2024). Research methods for law (3rd ed.). Edinburgh University Press. https://doi.org/10.1515/9781399515092
27) Meckelburg, R., & Wardana, A. (2024). The political economy of land acquisition for development in the public interest: The case of Indonesia. Land Use Policy, 137, Article 107017. https://doi.org/10.1016/j.landusepol.2023.107017
28) Moore, C. W. (2014). The mediation process: Practical strategies for resolving conflict (4th ed.). Jossey-Bass.
29) Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Metodologi normatif dan empiris dalam perspektif ilmu hukum. Jurnal Penegakan Hukum Indonesia, 2(1), 1–20. https://doi.org/10.51749/jphi.v2i1.14
30) Ostrom, E. (1990). Governing the commons: The evolution of institutions for collective action. Cambridge University Press.
31) Parlindungan, A. P. (1999). Pendaftaran tanah di Indonesia. Mandar Maju.
32) Rawls, J. (1999). A theory of justice (Rev. ed.). Harvard University Press.

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33) Regulation of the Minister of Tourism No. 6 of 2025 on Business Activity Standards, Supervision Procedures, and Administrative Sanctions in Risk-Based Business Licensing in the Tourism Sector.
34) Santoso, U. (2017). Hukum agraria: Kajian komprehensif. Kencana.
35) Sen, A. (2009). The idea of justice. Harvard University Press.
36) Soekanto, S. (2008). Faktor-faktor yang mempengaruhi penegakan hukum. RajaGrafindo Persada.
37) Sumardjono, M. S. W. (2008). Tanah dalam perspektif hak ekonomi, sosial dan budaya. Penerbit Buku Kompas.
38) Sumarja, F. X., Sujadmiko, B., Nguyen, T. D., & Rusmawati, D. E. (2023). Transfer of land ownership and marginalization as impact of tourism industry. Hasanuddin Law Review, 9(2), 197–210.
39) Taekema, S. (2021). Methodologies of rule of law research: Why legal philosophy needs empirical and doctrinal scholarship. Law and Philosophy, 40(1), 33–66. https://doi.org/10.1007/s10982-020-09388-1
40) Tosun, C. (2000). Limits to community participation in the tourism development process in developing countries. Tourism Management, 21(6), 613–633.
41) United Nations. (2011). Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework (HR/PUB/11/04). Office of the United Nations High Commissioner for Human Rights.
42) van Gestel, R. (2023). Quality, methodology, and politics in doctrinal legal scholarship. Law and Method, 2023(January–March), 1–24.
43) Wardana, A. (2019). Contemporary Bali: Contested space and governance. Palgrave Macmillan.
44) Wardana, A. (2020). Neoliberalizing cultural landscapes: Bali's agrarian heritage. Critical Asian Studies, 52(2), 270–285.
45) Wardana, A. A., Koeswahyono, I., Permadi, I., & Prasetyo, N. D. (2025). Reconceptualization of land acquisition regulations for tourism village development based on the principle of public interest. Jurnal IUS Kajian Hukum dan Keadilan, 13(2), 405–428. https://doi.org/10.29303/ius.v13i2.1809
46) Warren, C., & Wardana, A. (2018). Sustaining the unsustainable? Environmental impact assessment and overdevelopment in Bali. Asia Pacific Journal of Environmental Law, 21(2), 101–125.
47) Wijaya, I. K. K. A., Sudira, I. M., & Wijaya, G. Y. N. (2023). Controlling space utilization in tourism areas perspective of Law Number 6 of 2023 about Job Creation. In Proceedings of the International Conference on Changing of Law: Business Law, Local Wisdom and Tourism Industry (pp. 624–629). Atlantis Press. https://doi.org/10.2991/978-2-38476-180-7_67
48) World Bank. (2018). Environmental and social standard 5: Land acquisition, restrictions on land use and involuntary resettlement. World Bank.

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