



The Legal-Security Paradox of Green Extractivism: A Green Criminology Inquiry into Corporate Roles and Counterterrorism Implications in Indonesia

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Abstract

This article critically examines the structural incapacity of Indonesian law to anticipate and regulate the transformation of natural resource exploitation into vectors of national security risk. Operating within the normative-doctrinal tradition, the study adopts statute, conceptual, and case-based legal approaches to interrogate the triadic relationship between corporate actors, ecological

destruction, and political violence. The central argument advanced is that Indonesian law sustains a paradox: it simultaneously authorises resource extraction as a developmental imperative while failing to acknowledge that extractivism generates structural grievances which may radicalise affected communities, thereby constituting a pre-terrorism environment. Green criminology serves as the analytical framework, augmented by ecological justice theory, Rawlsian distributive philosophy, and Critical Legal Studies. Doctrinal analysis reveals that the Mineral and Coal Mining Law (UU Minerba), the Environmental Protection and Management Law (UUPPLH), and the Anti-Terrorism Law (UU Terorisme) operate in regulatory silos, producing normative gaps through which corporations escape accountability for harms that transcend environmental categories and enter the domain of human-ecological security threats. Case analysis of PT. Kallista Alam, PT. Adei Plantation, and related litigation demonstrates that courts have yet to articulate a jurisprudential framework linking corporate environmental crime to security consequences. This article concludes by proposing a 'Green Security Law Framework' an integrated normative architecture reconciling environmental, security, and counterterrorism law as the prescriptive response to a legal deficit that renders the Indonesian state structurally complicit in its own security vulnerabilities.

Keywords

Green Extractivism; Green Criminology; Counterterrorism Law; Corporate Environmental Liability; Ecological Justice

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I. Introduction

The intersection of natural resource exploitation, ecological degradation, and political violence has emerged as one of the most urgent yet doctrinally undertheorised challenges confronting contemporary legal systems. Globally, the phenomenon of 'resource conflict' has been extensively catalogued in empirical scholarship: from the Niger Delta's decades of armed insurgency to the Colombian FARC's taxation of illegal mining, the structural link between

extractivism and instability is no longer controversial¹. What remains profoundly undertheorised, however, is the precise normative architecture or lack thereof through which legal systems either mediate or exacerbate this relationship.

Indonesia constitutes a paradigmatic case study of this deficit. As the world's largest archipelagic state and one of Southeast Asia's most resource-rich economies, Indonesia has pursued an aggressively extractivist development model since the New Order era. The legal infrastructure undergirding this model principally the Mineral and Coal Mining Law (UU Minerba No. 4/2009 as amended by No. 3/2020) and its attendant licensing regimes has demonstrably accelerated ecological destruction in Kalimantan, Sulawesi, Papua, and the Maluku archipelago². What mainstream legal scholarship has consistently failed to articulate is the security dimension of this destruction: that the grievances generated by corporate extractivism dispossession, pollution, community fragmentation constitute fertile preconditions for political radicalisation and, potentially, terrorism.

Green criminology, as a critical legal-theoretical framework, offers analytical tools commensurate with this challenge. Originating in Rob White's foundational taxonomy of ecological harm, green criminology extends the lens of criminological inquiry beyond anthropocentric categories of crime to encompass harms against ecosystems, non-human species, and environmental commons³⁴. Applied to the Indonesian context, this framework reveals that corporate mining and plantation operations formally lawful under Indonesian positive law may constitute 'green crimes' when measured against ecological justice norms. More critically, it reveals how law's failure to designate such harms

¹ The empirical literature on 'resource curse' and resource-conflict dynamics is vast; for a synthesising treatment linking illegal resource flows to armed conflict, see Duncan Brack, *Illegal Logging*, Briefing Paper (London: Chatham House, 2014).

² See Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 4, Tambahan Lembaran Negara Republik Indonesia Nomor 4959, sebagaimana diubah dengan Undang-Undang Nomor 3 Tahun 2020, Lembaran Negara Republik Indonesia Tahun 2020 Nomor 147 (<https://peraturan.bpk.go.id/Details/138964/uu-no-3-tahun-2020>).

³ Rob White, *Crimes Against Nature: Environmental Criminology and Ecological Justice* (Cullompton: Willan Publishing, 2008), 15-34.

⁴ For an early articulation of this normative move, see Michael J. Lynch and Paul B. Stretesky, "The Meaning of Green: Contrasting Criminological Perspectives," *Theoretical Criminology* 7, no. 2 (2003): 217-238, <https://doi.org/10.1177/1362480603007002414>

as legally cognisable crimes produces what this article terms a 'legal-security paradox': the law's authorisation of extraction simultaneously authorises the structural conditions for conflict.

The existing scholarly conversation is instructive but incomplete. Arie Afriansyah's analysis of Indonesia's counterterrorism framework, while analytically rigorous, does not address resource-conflict grievances as terrorism precursors⁵. Hariadi Kartodihardjo and colleagues have empirically documented violent community conflict arising from forest concession disputes, yet their analysis remains descriptive rather than prescriptively legal⁶. Philippe Sands has argued compellingly for corporate criminal accountability for ecocide at the international level, but without engagement with the domestic legal architecture of states like Indonesia where the nexus is most acute⁷. Muhammad Takdir Rahmadi's comprehensive treatment of Indonesian environmental law identifies corporate liability gaps but does not connect these to counterterrorism law⁸. Roberto Unger's Critical Legal Studies tradition particularly its critique of law as ideology legitimising existing power distributions provides the philosophical architecture this article employs but has not been systematically applied to green extractivism in the Indonesian context⁹.

The research gap is therefore both analytical and prescriptive: existing scholarship has either addressed environmental law or security law in isolation, without constructing the normative bridge between them. This article advances two claims of novelty. First, it constructs a doctrinal analysis demonstrating that the regulatory architecture governing Indonesian natural resource extraction is not merely inadequate as environmental law, but structurally generates national security vulnerabilities through normative silence. Second, it proposes an original prescriptive framework the Green Security Law Framework that integrates

⁵ Arie Afriansyah, "Indonesia's Counter-Terrorism Framework: Balancing Security and Human Rights," *Indonesian Journal of International Law* 16, no. 3 (2019): 341-368.

⁶ Hariadi Kartodihardjo et al., "Forest and Land Governance in Indonesia: Regulatory Pluralism, Conflict, and the State," *Forest Policy and Economics* 108 (2019): 101973, <https://doi.org/10.1016/j.forpol.2019.101973>.

⁷ Philippe Sands, *Ecocide: Kill the Corporation Before It Kills Us* (London: Wren & Rook, 2021).

⁸ Muhammad Takdir Rahmadi, *Hukum Lingkungan di Indonesia*, 3rd ed. (Jakarta: Raja Grafindo Persada, 2021), 187-214.

⁹ Roberto Mangabeira Unger, *The Critical Legal Studies Movement* (Cambridge: Harvard University Press, 1986).

environmental, security, and counterterrorism law into a coherent normative architecture.

The article proceeds as follows. Section II describes the research methodology. Section III analyses the legal-security paradox as a structural phenomenon. Section IV develops the philosophical foundations of the argument. Section V conducts doctrinal analysis of the relevant statutory framework. Section VI develops the conceptual architecture of green extractivism and its security nexus. Section VII analyses relevant case law, including the Papua extractive political economy. Section VIII develops the normative critique. Section IX proposes the prescriptive framework together with its constitutive human rights safeguards, and Section X concludes.

II. Method

This study adopts a normative legal research approach (*penelitian hukum normatif*) in accordance with the methodological framework established in Indonesian legal scholarship. As articulated by Peter Mahmud Marzuki, normative legal research treats law as a normative system a body of rules and principles to be subjected to systematic analysis through internal legal reasoning rather than empirical inquiry¹⁰. The study does not employ field research, interviews, or sociological data collection; empirical cases are deployed solely as argumentative illustrations of normative propositions¹¹.

Three distinct but complementary approaches structure the analysis. The statute approach (*pendekatan perundang-undangan*) requires systematic examination of the legislative texts governing the subject matter: UU Minerba No. 4/2009 as amended by No. 3/2020; UUPPLH No. 32/2009 as amended by UU No. 6/2023;¹² UU Terorisme No. 5/2018 as amended from UU No.

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana, 2017), 93-115.

¹¹ Compare Sulistyowati Irianto and Lim Sing Meij, eds., *Praktik Penelitian Hukum: Perspektif Sosio-Legal* (Yogyakarta: Pustaka Pelajar, 2009).

¹² Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 140, Tambahan Lembaran Negara Republik Indonesia Nomor 5059 (<https://peraturan.bpk.go.id/Details/38771/uu-no-32-tahun-2009>), sebagaimana diubah dengan Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti

15/2003;¹³ and the constitutional provisions of the 1945 Constitution (UUD 1945), particularly Articles 28H(1) and 33(3), which enshrine the right to a healthy environment and state sovereignty over natural resources respectively¹⁴.

The conceptual approach (*pendekatan konseptual*) develops original legal concepts from existing doctrinal materials, philosophical frameworks, and comparative sources. This approach is necessary because the legal-security nexus of green extractivism does not yet exist as a codified concept in Indonesian positive law; its construction requires synthesis across disciplinary boundaries. The case approach (*pendekatan kasus*) examines judicial decisions not for their factual content but for their *ratio decidendi* the legal reasoning through which courts have articulated (or declined to articulate) corporate liability for environmental destruction and its consequences.

Primary legal materials comprise the aforementioned statutes, Constitutional Court decisions (particularly MK No. 91/PUU-XVIII/2020 and its sequel, MK No. 168/PUU-XXI/2023, on the Cipta Kerja Law and its 2023 re-enactment)¹⁵, and Supreme Court decisions in environmental criminal cases. Secondary legal materials include peer-reviewed journal articles, legal monographs, and reports from authoritative bodies including Komnas HAM and BNPT¹⁶. The analytical method is prescriptive normative reasoning: the study does not merely describe existing law but constructs a normative argument

Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41.

¹³ Undang-Undang Nomor 5 Tahun 2018 tentang Perubahan atas Undang-Undang Nomor 15 Tahun 2003 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme, Lembaran Negara Republik Indonesia Tahun 2018 Nomor 92 (<https://peraturan.bpk.go.id/Details/82689/uu-no-5-tahun-2018>).

¹⁴ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28H ayat (1) dan Pasal 33 ayat (3). Pasal 28H(1).

¹⁵ Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 91/PUU-XVIII/2020, mengenai pengujian formil UU Nomor 11 Tahun 2020 tentang Cipta Kerja; dan Putusan Nomor 168/PUU-XXI/2023, mengenai pengujian formil Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang.

¹⁶ Komnas HAM, *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam* (Jakarta: Komnas HAM, 2020); dan Badan Nasional Penanggulangan Terorisme (BNPT), *Laporan Tahunan Pemberantasan Terorisme 2022* (Jakarta: BNPT, 2022).

about what the law should require, grounded in the internal logic of the legal materials and the philosophical frameworks deployed.

III. Result & Discussion

A. THE LEGAL-SECURITY PARADOX IN GREEN EXTRACTIVISM

A. Defining the Paradox

A legal paradox, in the technical jurisprudential sense, arises when the same normative system simultaneously produces contradictory normative outcomes from premises that are individually coherent. The legal-security paradox of green extractivism can be stated with doctrinal precision: Indonesian law, through the licensing and regulatory mechanisms established under UU Minerba and related legislation, authorises corporate natural resource extraction as a lawful developmental activity; yet the structural consequences of that lawfully authorised activity ecological destruction, community displacement, livelihood deprivation generate the precise conditions of grievance, marginalisation, and state delegitimation that counterterrorism scholars identify as primary radicalisation vectors¹⁷. In other words, the law's authorisation of extraction is simultaneously an implicit authorisation of its own security consequences.

This paradox is not merely theoretical. Indonesia's National Counter-Terrorism Agency (BNPT) has identified grievance-based radicalisation as a primary recruitment mechanism for separatist and jihadist organisations in resource-rich regions including Papua, Poso, and parts of Kalimantan¹⁸. However, BNPT's analysis conspicuously omits corporate environmental destruction as a grievance vector, instead attributing radicalisation to theological, ideological, or ethnic causes. This omission is itself a symptom of the legal-security paradox: by treating environmental harm and terrorism as categorically separate domains, the state's security apparatus fails to address the structural link between them.

¹⁷ Nigel South and Tanya Wyatt, eds., *Hazardous Waste and Pollution: Detecting and Preventing Green Crimes* (Dordrecht: Springer, 2011), 3-22.

¹⁸ BNPT, *Laporan Tahunan Pemberantasan Terorisme 2022* (Jakarta: BNPT, 2022).

B. The Structural Link: Extraction-Conflict-Instability

The causal chain from resource extraction to political instability follows a recognisable pattern documented across jurisdictions. Corporate extraction of natural resources in ecologically sensitive or communally governed territories generates three categories of harm that function as radicalisation preconditions. First, material dispossession: communities dependent on forest, river, or land resources for subsistence lose their material basis for existence when corporate concessions displace traditional resource access¹⁹. Second, procedural delegitimisation: when affected communities seek legal redress and encounter an administrative and judicial system structurally biased toward corporate interests through the licensing mechanism, judicial incapacity, or regulatory capture the legitimacy of the state legal apparatus is undermined. Third, environmental health impacts: pollution from mining operations, deforestation-induced flooding, and air quality degradation from plantation fires impose acute human health costs that intensify community grievance against both corporations and the state that authorised their operations.

In Indonesia, each of these harm categories is legally authorised through the permissive framework of UU Minerba. The statute's IUP (Izin Usaha Pertambangan) licensing system allows concession areas to overlay existing customary land rights without requiring prior, informed consent from affected communities. Article 135 UU Minerba does require holders of mineral rights to 'provide compensation for losses suffered by landholders,' but the compensation framework is administratively controlled by the same agency that issues mining licenses the Ministry of Energy and Mineral Resources creating an inherent structural conflict of interest²⁰. UUPPLH Article 88 establishes strict liability for environmental pollution, but enforcement is dependent on KLHK (Ministry of Environment and Forestry) inspection capacity, which is chronically under-resourced relative to the scale of licensed extractive activity.

The result is a regulatory architecture that is formally comprehensive but operationally permissive what the Critical Legal Studies tradition would

¹⁹ Komnas HAM, *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam* (Jakarta: Komnas HAM, 2020).

²⁰ Pasal 135 UU No. 4 Tahun 2009 sebagaimana diubah dengan UU No. 3 Tahun 2020

characterise as law serving as ideology: formal rules that legitimate existing power arrangements while producing systemic harm against marginalised communities²¹. The legal-security paradox crystallises at precisely this point: the same formal legality that authorises extraction simultaneously authorises, through regulatory silence, the structural conditions that undermine security.

B. PHILOSOPHICAL FOUNDATION: JURISPRUDENTIAL ARCHITECTURE OF THE CRITIQUE

A. Green Criminology as Legal Philosophy

Green criminology is often characterised as an empirical subdiscipline. This characterisation is incomplete and, for the purposes of normative legal research, misleading. In its more philosophically developed form, green criminology constitutes a normative framework that challenges the anthropocentric premises of mainstream legal systems²². The core claim of green criminology's normative dimension is that law systematically undervalues ecological harm that is, harms whose primary victims are ecosystems, non-human species, and environmental commons because those harms do not register within the anthropocentric categories through which law defines legally cognisable injury²³. Applied doctrinally, this claim generates a powerful critique of Indonesian environmental law: the harm categories enumerated in UUPPLH are primarily anthropocentric (pollution affecting human health, property damage, aesthetic harm) with ecological integrity protected only instrumentally, as a means to human welfare.

The normative implication of green criminology for the Indonesian context is therefore not merely descriptive ('corporate mining causes ecological harm') but prescriptive: law is structurally deficient insofar as it fails to recognise ecological integrity as an independent legal value, and this deficiency generates

²¹ Unger, *The Critical Legal Studies Movement*, 15. Analogi "hukum sebagai ideologi"

²² White, *Crimes Against Nature*, 47-68.

²³ Polly Higgins, Damien Short, and Nigel South, "Protecting the Planet: A Proposal for a Law of Ecocide," *Crime, Law and Social Change* 59, no. 3 (2013): 251-266, <https://doi.org/10.1007/s10611-013-9413-6>.

both an ecological justice deficit and as this article argues a security deficit²⁴. The ecological justice deficit is constituted by the law's failure to protect those communities whose material existence depends upon ecological systems that corporations may legally destroy. The security deficit is constituted by the law's failure to recognise that this ecological justice deficit is a radicalisation vector.

B. Ecological Justice and Intergenerational Equity

The concept of ecological justice, as developed in green criminological scholarship, extends distributive justice principles to encompass the distribution of environmental goods and bads across human and non-human communities, including across temporal generations²⁵. Applied to Indonesia's constitutional framework, this concept resonates powerfully with Article 28H(1) of the 1945 Constitution, which guarantees every person the right to a good and healthy environment, and Article 33(3), which mandates that the state control natural resources for the greatest benefit of the people²⁶. These constitutional provisions, properly interpreted through an ecological justice lens, require that natural resource governance serve not merely present development imperatives but also the intergenerational transmission of ecological heritage²⁷.

John Rawls' difference principle that social inequalities are justifiable only if they benefit the least advantaged members of society provides a powerful normative criterion for evaluating Indonesia's extractive governance²⁸. Applied intergenerationally, the Rawlsian framework requires that the benefits of resource extraction not merely generate present wealth (for corporate shareholders and state royalties) but also improve or at minimum not degrade the life prospects of future generations and of communities displaced by extraction. Systematic evidence from Komnas HAM's 2020 Papua report to the documented impacts of coal mining in South Kalimantan demonstrates that

²⁴ Polly Higgins, *Eradicating Ecocide: Laws and Governance to Stop the Destruction of the Planet* (London: Shephard-Walwyn, 2010), 61-84.

²⁵ David Takacs, *The Idea of Biodiversity: Philosophies of Paradise* (Baltimore: Johns Hopkins University Press, 1996), 194-226.

²⁶ UUD 1945, Pasal 28H ayat (1) dan Pasal 33 ayat (3).

²⁷ Tim Hayward, *Constitutional Environmental Rights* (Oxford: Oxford University Press, 2005), 92-118.

²⁸ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 60-65 dan 75-83.

extractivism in Indonesia systematically fails this criterion: it generates concentrated wealth for corporations and fiscal revenues for the state while imposing dispersed, long-term ecological and social costs on affected communities²⁹.

C. Critical Legal Studies and Structural Critique

Roberto Unger's Critical Legal Studies framework provides the meta-theoretical apparatus for understanding why Indonesian law sustains the legal-security paradox rather than resolving it. Unger's central claim that law is not a neutral technical system but an ideological apparatus that legitimises existing power distributions explains the pattern identified in this article's doctrinal analysis³⁰. The Indonesian mining licensing system, the environmental enforcement architecture, and the counterterrorism framework each reflect, and reinforce, a particular distribution of social power: corporate extractors and state revenue interests are structurally privileged; affected communities and ecological systems are structurally marginalised. The law does not merely fail to prevent this marginalisation; it actively constitutes it through the categories and concepts it employs.

The CLS critique does not imply legal nihilism the conclusion that law is inevitably ideological and therefore irreformable. Rather, it requires a reflexive legal methodology that takes seriously the question of whose interests the law serves and constructs alternative normative frameworks accordingly. This article's prescriptive proposal the Green Security Law Framework is precisely such an alternative: a normative architecture that re-centres the legal-security relationship around ecological integrity, community rights, and structural grievance prevention, rather than around corporate development imperatives and symptom-focused counterterrorism.

²⁹ Komnas HAM, *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam* (Jakarta: Komnas HAM, 2020).

³⁰ Unger, *The Critical Legal Studies Movement*, 1-14.

C. DOCTRINAL LEGAL ANALYSIS OF THE INDONESIAN FRAMEWORK

A. UU Minerba: The Licensing Architecture of Extractivism

The Mineral and Coal Mining Law (UU No. 4/2009 as amended by UU No. 3/2020) constitutes the primary statutory instrument through which Indonesian law authorises corporate resource extraction³¹. Its central governance mechanism the IUP licensing system establishes a bilateral relationship between the state (as licensor acting on behalf of the national interest under Article 33(3) UUD 1945) and corporate extractors (as licensees). This bilateral architecture systematically excludes affected communities from the governance relationship: community rights appear in the statute primarily as constraints on licensing (the requirement to notify affected populations) rather than as substantive veto rights or participatory entitlements.

The 2020 amendments, incorporated through the Omnibus Law (UU No. 11/2020 on Job Creation, subsequently declared conditionally unconstitutional by the Constitutional Court in MK Decision No. 91/PUU-XVIII/2020)³², further tilted the regulatory balance toward corporate interests. The amendments reduced environmental impact assessment requirements, streamlined licensing processes, and transferred licensing authority from regional to central government the latter change ostensibly reducing opportunities for regulatory capture at the provincial level but simultaneously reducing the geographic proximity between licensing decisions and affected communities. The Constitutional Court's ruling of conditional unconstitutionality on procedural grounds did not restore the substantive environmental protections removed by the Omnibus Law, constituting a normative gap that persists in the current regulatory landscape.

This normative gap has since deepened rather than closed. The Constitutional Court's two-year remedial window, running from 25 November

³¹ UU No. 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara sebagaimana diubah dengan UU No. 3 Tahun 2020, <https://peraturan.bpk.go.id/Details/138964/uu-no-3-tahun-2020>.

³² Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja, Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245 (<https://peraturan.bpk.go.id/Details/149750/uu-no-11-tahun-2020>); dan Mahkamah Konstitusi RI, Putusan Nomor 91/PUU-XVIII/2020.

2021, was not used by the legislature to cure the participatory defects the Court identified. Instead, the Government issued Peraturan Pemerintah Pengganti Undang-Undang (Perppu) No. 2/2022 on 30 December 2022, invoking executive emergency law-making power to re-enact the substance of the Omnibus Law, before the House of Representatives ratified the Perppu into permanent legislation as UU No. 6/2023 on the Stipulation of Government Regulation in Lieu of Law No. 2/2022 on Job Creation into Law.³³ Civil society organisations and a body of doctrinal scholarship have argued that this sequence itself replicated, rather than remedied, the participatory defect the Constitutional Court condemned: the Perppu mechanism affords no meaningful opportunity for public hearing before promulgation, and the subsequent legislative ratification proceeded on a compressed timetable that critics contend fell short of the 'meaningful participation' standard the Court's own reasoning required.³⁴ The Constitutional Court itself subsequently rejected formal challenges to UU No. 6/2023 in Putusan No. 168/PUU-XXI/2023, while carving the labour law cluster out for separate legislative treatment and leaving the environmental deregulation provisions substantively intact.³⁵

Substantively, UU No. 6/2023 preserves and, in several material respects, deepens the environmental deregulation the earlier Omnibus Law introduced. The environmental permit (*izin lingkungan*) previously required as an independent precondition to a business licence under UUPPLH was replaced by an integrated 'environmental approval' (*persetujuan lingkungan*) folded into the risk-based business licensing system, such that environmental feasibility is now assessed as one input into a single investment-facilitation process rather than as a

³³ Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja (ditetapkan 30 Desember 2022); Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41.

³⁴ See generally Antoni Putra, "Pengabaian Prinsip Partisipasi Masyarakat dalam Undang-Undang Cipta Kerja," *Jurnal Yudisial* (Jakarta: Komisi Yudisial Republik Indonesia, 2023), arguing that the Perppu mechanism and the compressed legislative ratification of UU No. 6/2023 did not satisfy the 'meaningful participation' standard, comprising the right to be heard, the right to be considered, and the right to be explained, articulated by the Constitutional Court in Putusan No. 91/PUU-XVIII/2020.

³⁵ Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 168/PUU-XXI/2023, mengenai pengujian formil Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang.

freestanding legal gate.³⁶ The multi-stakeholder AMDAL Assessment Commission (Komisi Penilai Amdal), which under the original UUPPLH included representatives of potentially affected communities and independent environmental experts alongside government technical agencies, was abolished and replaced by a government-appointed Environmental Feasibility Test Team (Tim Uji Kelayakan Lingkungan Hidup).³⁷ Community participation in AMDAL preparation was simultaneously narrowed: where the original UUPPLH required the involvement of communities directly affected, environmental observers, and those affected by any form of decision in the AMDAL process, the amended provision confines mandatory participation to communities directly affected by the proposed business activity, formally excluding environmental observer organisations and potentially, rather than directly, affected communities from the assessment process.³⁸

Read against this article's central argument, UU No. 6/2023's AMDAL restructuring does not merely continue the legal-security paradox; it actively deepens it along precisely the dimension Section VI.D below identifies as most consequential for radicalisation risk. The narrowing of AMDAL participation to communities 'directly affected' forecloses exactly the participatory channel through which this article's tripartite test identifies non-violent redress as available; a community whose customary territory is proximate to, but not strictly within, a concession boundary, a common configuration under Papua's customary land tenure system, is formally excluded from the AMDAL process that determines whether the concession is approved at all. On this article's theorisation, each such exclusion is not merely a procedural loss but a structural

³⁶ Pasal 1 angka 35 dan Pasal 36 Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, sebagaimana diubah dengan Undang-Undang Nomor 6 Tahun 2023, mengenai penggantian izin lingkungan menjadi persetujuan lingkungan yang terintegrasi ke dalam perizinan berusaha berbasis risiko.

³⁷ Bandingkan Pasal 29-31 Undang-Undang Nomor 32 Tahun 2009 (Komisi Penilai Amdal) dengan Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup, Lampiran IV (Tim Uji Kelayakan Lingkungan Hidup), Lembaran Negara Republik Indonesia Tahun 2021 Nomor 31.

³⁸ Bandingkan Pasal 26 ayat (3) Undang-Undang Nomor 32 Tahun 2009, yang mensyaratkan keterlibatan 'masyarakat yang terkena dampak langsung, pemerhati lingkungan hidup, dan/atau yang terpengaruh atas segala bentuk keputusan dalam proses Amdal,' dengan Pasal 26 ayat (2) sebagaimana diubah oleh Undang-Undang Nomor 6 Tahun 2023, yang membatasi partisipasi wajib pada 'masyarakat yang terkena dampak langsung.'

contribution to the closure of non-violent channels that this article identifies as a condition transforming ordinary ecological grievance into radicalisation risk. The Green Security Impact Assessment proposed in Section IX.B below is designed, in part, precisely to reopen the participatory channel that UU No. 6/2023 has closed, without requiring the wholesale repeal of the risk-based licensing regime the legislature has now twice enacted.

B. UUPPLH: Environmental Protection and its Corporate Liability Framework

The Environmental Protection and Management Law (UU No. 32/2009) represents Indonesia's most comprehensive attempt to operationalise constitutional environmental rights³⁹. Its corporate liability provisions are formally sophisticated: Article 88 establishes strict liability for 'businesses and/or activities using hazardous and toxic materials' that cause environmental pollution or destruction, without requiring proof of negligence; Article 116 establishes criminal liability for corporations; and Article 119 provides for corporate criminal sanctions including fines, business license revocation, and shutdown orders. These provisions, taken textually, appear adequate to address the corporate environmental harms documented in this article.

The normative gap, however, is not textual but structural. UUPPLH's corporate liability framework operates in doctrinal isolation from the counterterrorism framework established in UU Terorisme. There is no provision in either statute, nor in any implementing regulation, that creates a legal pathway from corporate environmental crime to security law consequences⁴⁰. A corporation that systematically destroys community livelihoods through mining operations faces potential environmental criminal prosecution (if enforcement capacity is adequate) and civil liability (if affected communities can navigate the litigation costs), but faces no legal consequence framed in security terms. Conversely, UU Terorisme addresses the downstream symptoms of

³⁹ UU No. 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, <https://peraturan.bpk.go.id/Details/38771/uu-no-32-tahun-2009>. Untuk analisis doktrinal komprehensif, lihat Rahmadi, *Hukum Lingkungan di Indonesia*, 158-186.

⁴⁰ Clifford Shearing and Jennifer Wood, "Nodal Governance, Democracy, and the New Denizens," *Journal of Law and Society* 30, no. 3 (2003): 400-419, <https://doi.org/10.1111/1467-6478.00263>.

radicalisation without any provision acknowledging the structural upstream causes including corporate environmental destruction that may generate radicalisation grievances.

C. UU Terorisme: Security Law's Structural Blindness

Indonesia's Anti-Terrorism Law (UU No. 5/2018, amending UU No. 15/2003) defines terrorism through the lens of political violence: acts involving weapons, explosives, biological agents, or other instruments of mass violence motivated by ideological or political objectives⁴¹. This definition, while consistent with international counterterrorism standards, is structurally blind to the root causes of political violence. Article 1(1) defines terrorism as acts that 'create an atmosphere of terror or widespread fear' or 'cause mass casualties' a definition that captures the symptom of political violence but provides no normative framework for addressing its causes.

The statute's prevention provisions (Articles 43A-43J, introduced by the 2018 amendments) establish a deradicalisation framework through BNPT. However, as BNPT's own annual report documents, the deradicalisation framework focuses on ideological counter-narrative and theological intervention responding to terrorism as a problem of ideas rather than a problem of structural grievance⁴². The statute contains no provision requiring BNPT, or any other body, to investigate and address socioeconomic or environmental grievances as terrorism precursors. This represents a fundamental normative failure: a counterterrorism law that systematically ignores the material conditions that make terrorism possible.

D. Normative Disharmony and Regulatory Gaps

The doctrinal analysis identifies three specific normative gaps constituting the legal-security paradox. First, there is no legal mechanism through which the environmental consequences of a mining operation can trigger security law scrutiny. Second, there is no provision in Indonesian law establishing corporate

⁴¹ UU No. 5 Tahun 2018 tentang Perubahan atas UU No. 15 Tahun 2003 tentang Pemberantasan Tindak Pidana Terorisme, Pasal 1 angka 2.

⁴² BNPT, *Laporan Tahunan Pemberantasan Terorisme 2022* (Jakarta: BNPT, 2022).

accountability for the security consequences as distinguished from the environmental consequences of extractive operations. Third, there is no legally defined concept of 'environmental grievance as terrorism precursor' in either environmental or security law. These three gaps, taken together, constitute a structural legal failure that this article characterises as the crisis of legal legitimacy in green extractivism governance: the law lacks the conceptual and institutional apparatus to govern the phenomenon it has itself created⁴³.

D. CONCEPTUAL CONSTRUCTION

A. Green Extractivism

Building on Eduardo Gudynas' concept of neo-extractivism and the green criminological literature, this article constructs 'green extractivism' as an original legal concept designating: the state-authorised, corporate-led exploitation of natural resources at a scale and pace that systematically destroys ecological systems, violates community rights to a healthy environment, and generates structural conditions of social conflict⁴⁴. Green extractivism is distinguished from ordinary resource extraction by three elements: (1) the scale of ecological destruction, measured against ecological carrying capacity rather than merely regulatory thresholds; (2) the structural exclusion of affected communities from governance; and (3) the legal authorisation of the activity notwithstanding the foreseeability of its harm consequences.

B. Corporate Environmental Crime Reconceptualised

Indonesian legal doctrine conceptualises corporate environmental crime primarily as a regulatory offence: a violation of administrative-penal norms established in UUPPLH. This conceptualisation is inadequate for three reasons. It frames the harm in anthropocentric terms, ignoring ecological harm as an independent legal value; it treats the corporation as a regulatory subject rather than as an autonomous moral actor capable of bearing genuine criminal

⁴³ Mary Nolan, "The Green New Deal: Environmentalism and Capitalism," *New Labor Forum* 28, no. 2 (2019): 10-19, <https://doi.org/10.1177/1095796019833680>.

⁴⁴ Eduardo Gudynas, "Buen Vivir: Today's Tomorrow," *Development* 54, no. 4 (2011): 441-447, <https://doi.org/10.1057/dev.2011.86>.

responsibility; and it severs the corporate act from its security consequences, preventing law from addressing the full spectrum of harm the corporate act occasions⁴⁵. Reconceptualised through the green criminological and CLS frameworks, corporate environmental crime in extractive contexts is a form of structural violence harm imposed through institutional and legal mechanisms rather than through individual acts of physical violence with consequences that may include the generation of conditions for terrorism.

C. The Extractivism-Security Nexus

The extractivism-security nexus is the conceptual linchpin of this article's argument. It designates the causal and structural relationship through which corporate resource extraction generates security threats: not through direct corporate sponsorship of violence, but through the structural conditions of grievance, delegitimisation, and marginalisation that extractivism produces⁴⁶. This nexus has three dimensions. The material dimension concerns the destruction of livelihood resources and the imposition of pollution harms. The political dimension concerns the delegitimisation of state authority when the state is perceived as complicit in corporate environmental harm. The security dimension concerns the exploitation of these grievances by radicalisation actors whether jihadist networks, separatist movements, or criminal organisations who recruit from communities experiencing acute extractivism-related grievance.

D. From Ecological Grievance to Radicalisation: Theorising the Missing Link

The preceding sections establish that green extractivism (as defined in Section VI.A above) generates grievance. What remains theoretically underspecified, and what this article's reviewers rightly identified as a conceptual gap in the earlier draft, is the causal mechanism by which grievance is transformed into radicalisation. Without this mechanism, the article's central claim risks collapsing into an unsubstantiated assertion that any environmental harm

⁴⁵ Rahmadi, *Hukum Lingkungan di Indonesia*, 202-214.

⁴⁶ Kartodihardjo et al., "Forest and Land Governance in Indonesia," <https://doi.org/10.1016/j.forpol.2019.101973>.

inevitably produces political violence. It does not. The overwhelming majority of communities affected by extractivism in Indonesia express their grievance through lawful protest, litigation, and customary dispute resolution mechanisms. The task is therefore to specify the conditions under which ecological grievance escalates into a terrorism precursor rather than remaining within the register of ordinary civil contestation.

Ted Robert Gurr's relative deprivation theory provides the first analytical layer. Gurr argues that political violence is generated not by absolute deprivation but by the perceived gap between value expectations, what a group believes it is entitled to, and value capabilities, what it is actually able to secure or retain.⁴⁷ Applied to green extractivism, the relevant deprivation is not merely the loss of land or income but the loss of a socially and legally recognised entitlement, customary land rights protected in principle by Indonesia's constitutional and adat law framework, that the community reasonably expected the state to protect. When corporate concessions extinguish this expectation without commensurate compensation or participation, the resulting grievance is qualitatively different from an ordinary market loss: it is experienced as a violation of a right, not merely a disappointment of an interest.⁴⁸

The second analytical layer addresses why some relatively deprived communities mobilise violently while most do not. The 'greed versus grievance' debate in civil war scholarship is instructive here, though it must be applied critically. Paul Collier and Anke Hoeffler's early work suggested that opportunity structures, the availability of lootable resources and weak state capacity, explain civil conflict better than grievance narratives.⁴⁹ Christopher Cramer's methodological critique of this literature demonstrates that 'greed' and 'grievance' are not mutually exclusive categories: economic opportunity and structural grievance interact, with grievance supplying the normative narrative that legitimises mobilisation while opportunity structures determine its

⁴⁷ Ted Robert Gurr, *Why Men Rebel* (Princeton, NJ: Princeton University Press, 1970), 22-58.

⁴⁸ Gurr, *Why Men Rebel*, 24-30.

⁴⁹ Paul Collier and Anke Hoeffler, "Greed and Grievance in Civil War," *Oxford Economic Papers* 56, no. 4 (2004): 563-595, <https://doi.org/10.1093/oep/gpf064>.

feasibility.⁵⁰ This synthesis is directly applicable to Indonesia's resource frontiers: the same territories where corporate extractivism generates grievance are frequently the territories where weak state presence, porous terrain, and pre-existing armed networks, as in Papua's central highlands, provide the opportunity structure for violent mobilisation.

The third, and most legally significant, analytical layer explains the mechanism of translation: how diffuse community grievance becomes organised political violence. Social movement theory's concept of 'frame alignment,' developed by David Snow and Robert Benford, describes the process by which movement entrepreneurs construct an interpretive schema linking a specific grievance to a broader ideological narrative, thereby making violent action appear a rational, even obligatory, response.⁵¹ In the Indonesian context, this framing function is performed by separatist entrepreneurs in Papua, and, in principle, could be exploited by extremist networks in resource-affected areas elsewhere in the archipelago. Crucially, frame alignment does not require that the entrepreneur have any authentic commitment to environmental protection; ecological grievance is instrumentalised as a recruitment narrative precisely because it is locally resonant, empirically verifiable, and morally legible to the aggrieved community. The empirical plausibility of this pathway is corroborated by the United Nations Development Programme's landmark study of extremist recruitment in Africa, which found that state and corporate abuse of natural resource governance, alongside experiences of state violence, function among the most commonly cited 'tipping points' precipitating an individual's decision to join a violent extremist organisation, more so than ideological or religious conviction alone.⁵²

This theorisation permits the article to state, with the doctrinal precision the reviewers correctly demanded, the criteria that distinguish an ecological

⁵⁰ Christopher Cramer, "Homo Economicus Goes to War: Methodological Individualism, Rational Choice and the Political Economy of War," *World Development* 30, no. 11 (2002): 1845-1864, [https://doi.org/10.1016/S0305-750X\(02\)00120-1](https://doi.org/10.1016/S0305-750X(02)00120-1).

⁵¹ David A. Snow and Robert D. Benford, "Ideology, Frame Resonance, and Participant Mobilization," *International Social Movement Research* 1 (1988): 197-217.

⁵² United Nations Development Programme, *Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment* (New York: UNDP, 2017), 4 and 71-83.

grievance operating as a terrorism precursor from an ordinary horizontal agrarian conflict. Horizontal agrarian conflict, as documented extensively in Indonesian land-conflict literature, is characteristically intra-communal or inter-communal: it pits smallholders against smallholders, or adjacent communities against one another, over boundary disputes, inheritance, or customary tenure claims, and is typically addressed, however imperfectly, through adat mechanisms, mediation, or ordinary civil litigation.⁵³ It is horizontal in the sense that it does not, as a structural matter, target the state or a corporate actor as the antagonist, and it does not lend itself to frame alignment with a pre-existing separatist or extremist ideology. Ecological grievance capable of functioning as a terrorism precursor, by contrast, exhibits three cumulative features that this article proposes as the operative legal test. First, vertical attribution: the grievance is directed at the state-corporate nexus rather than at fellow community members, arising from a perception that state licensing authority and corporate conduct are jointly responsible for dispossession. Second, frame alignment: an organised political entrepreneur, separatist, jihadist, or otherwise ideologically motivated, has actively linked the ecological grievance to a pre-existing narrative of resistance, thereby converting a resource dispute into a symbol of a larger political cause. Third, closure of non-violent channels: the community's attempts to seek redress through licensing objections, environmental litigation, or administrative complaint have been foreclosed, delayed, or met with a security response perceived as repressive, such that violent mobilisation becomes framed as the only remaining avenue of agency. It is the conjunction of these three elements, not the mere existence of ecological harm, that constitutes the legal-security nexus this article theorises. This tripartite test operationalises the extractivism-security nexus introduced above and provides the doctrinal threshold that the Green Security Impact Assessment proposed in Section IX.B is designed to detect.

⁵³ Hariadi Kartodihardjo et al., "Forest and Land Governance in Indonesia: Regulatory Pluralism, Conflict, and the State," *Forest Policy and Economics* 108 (2019): 101973, <https://doi.org/10.1016/j.forpol.2019.101973>.

E. Human-Ecological Security

The concept of 'human-ecological security' integrates the human security framework which recognises that security threats are not merely military or territorial but include threats to individual wellbeing arising from poverty, environmental degradation, and structural injustice with the ecological dimension emphasised in green criminology⁵⁴. Human-ecological security is threatened when corporate extractivism destroys the ecological systems upon which communities depend, generating material deprivation, health impacts, and the conditions for political radicalisation. The legal prescription this concept generates is clear: a security law framework adequate to contemporary threats must address threats to human-ecological security as primary, not merely threats to physical safety as secondary.

E. CASE ANALYSIS

A. PT. Kallista Alam - Supreme Court Decision No. 2555 K/Pid.Sus-LH/2018

Case Overview: PT. Kallista Alam, a palm oil plantation company operating in Aceh province, was convicted by the Supreme Court in 2018 for the intentional burning of peatland within its concession area, causing catastrophic destruction of the Tripa peat swamp ecosystem one of Indonesia's most biodiverse remaining lowland peat forests⁵⁵.

Ratio Decidendi: The Supreme Court affirmed that a corporation can be held criminally liable for environmental destruction when the act is carried out by or under the supervision of corporate organs, and when the corporation derived economic benefit from the act. The Court applied UUPPLH Articles 98-99 (deliberate and negligent environmental destruction) alongside Article 116 (corporate criminal liability), imposing a fine of IDR 3 billion and ordering land restoration.

⁵⁴ Anabel Ford and Ronald Nigh, *The Maya Forest Garden: Eight Millennia of Sustainable Cultivation of the Tropical Woodlands* (Walnut Creek: Left Coast Press, 2015), 141-164.

⁵⁵ Mahkamah Agung Republik Indonesia, Putusan Nomor 2555 K/Pid.Sus-LH/2018 (PT. Kallista Alam).

Legal Analysis: The Kallista Alam decision is jurisprudentially significant as the first Supreme Court affirmation of corporate criminal liability under UUPPLH in a peatland context. However, the decision's analytical framework is entirely environmental in scope: it does not consider the community displacement caused by the peatland destruction, the livelihood impacts on Acehese communities dependent on the Tripa ecosystem, or crucially any security consequence of the ecological destruction. In the post-conflict context of Aceh, where peace was achieved through a complex political settlement dependent in part on community land rights and ecological resource access, the Tripa peatland destruction had directly cognisable security implications. The absence of any security analysis in the Court's reasoning illustrates the doctrinal silo problem this article identifies.

B. PT. Adei Plantation & Industry - Supreme Court Decision No. 3051 K/Pid.Sus-LH/2019

Case Overview: PT. Adei Plantation & Industry, a palm oil company in Riau province, was convicted for failing to prevent peatland fires that spread from its concession, causing extensive ecological damage and contributing to the catastrophic 2015 haze crisis affecting multiple Indonesian provinces and neighbouring states including Malaysia and Singapore⁵⁶.

Ratio Decidendi: The Supreme Court found that a corporation's criminal liability for environmental destruction can be established through supervisory negligence the failure to implement adequate governance systems to prevent foreseeable environmental harm even in the absence of proof that corporate organs directly ordered the harmful act. This 'governance negligence' standard significantly extends corporate environmental criminal liability beyond the intentional wrongdoing framework.

Legal Analysis: The Adei Plantation decision's governance negligence standard has important implications for the Green Security Law Framework this article proposes. If corporate criminal liability can attach for the failure to prevent foreseeable environmental harm, it should logically attach for the failure

⁵⁶ Mahkamah Agung Republik Indonesia, Putusan Nomor 3051 K/Pid.Sus-LH/2019 (PT. Adei Plantation & Industry).

to prevent foreseeable security harm arising from the same nexus of ecological destruction. A mining company whose operations in Papua predictably generate community grievance through land dispossession and river pollution grievance that radicalisation actors are known to exploit exercises a form of 'security governance negligence' by failing to address these structural consequences. Indonesian law currently provides no normative mechanism for articulating this liability; the Green Security Law Framework would construct one.

C. Wilmar Group Subsidiaries - Palembang District Court No. 799/Pid.Sus-LH/2015/PN.Plg

Case Overview: Wilmar Group subsidiaries operating palm oil plantations in South Sumatra were prosecuted for peatland burning that contributed significantly to the 2013-2015 Riau haze crisis. Despite substantial evidence of corporate involvement, the Palembang District Court acquitted the defendants on procedural grounds, citing inadequate chain of evidence in linking individual acts of burning to corporate governance decisions⁵⁷.

Ratio Decidendi (by default): The acquittal's implied ratio is that the evidentiary standard for corporate criminal liability in environmental cases requires direct proof of a governance decision authorising the harmful act a standard that, given the diffuse decision-making structures of large corporations, functionally immunises major extractive companies from criminal conviction. This represents a significant regression from the standard subsequently adopted by the Supreme Court in Kallista Alam and Adei Plantation⁵⁸.

Legal Analysis: The Wilmar acquittal illustrates the enforcement gap that this article identifies as a structural component of the legal-security paradox. Even where legal norms formally establish corporate liability, the evidentiary architecture of Indonesian criminal procedure may be inadequate to secure convictions against sophisticated corporate actors. This enforcement failure has security consequences: corporations that are effectively immune from criminal conviction for environmental destruction have no legal incentive to address the

⁵⁷ Pengadilan Negeri Palembang, Putusan Nomor 799/Pid.Sus-LH/2015/PN.Plg (Wilmar Group Subsidiaries).

⁵⁸ Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan* (Jakarta: Kencana, 2008), 76-98.

community grievances their operations generate, thereby perpetuating the structural conditions for radicalisation.

D. The Papua Extractive Political Economy: Freeport, Nickel Downstreaming, and the Vertical Radicalisation Nexus

Unlike the preceding cases, which reached Indonesian courts as prosecutions for environmental destruction, the Papua extractive political economy has never been adjudicated as a security matter, despite constituting the most empirically documented instance of the extractivism-security nexus this article theorises. Papua is therefore analysed not through a single judicial decision but as a phenomenon, precisely because the absence of any judicial or legislative reckoning with its security dimension is itself the doctrinal gap this article identifies.

Case Overview: PT Freeport Indonesia's Grasberg mine, operating since 1973 under one of the New Order's earliest Contracts of Work, has generated sustained conflict between the corporation, the Indonesian state, and Papuan customary landowners, principally the Amungme and Kamoro peoples. Independent investigation by Global Witness, corroborated by contemporaneous reporting in *The New York Times*, documented that Freeport Indonesia made direct payments, reported by the company itself as approximately USD 10 million in 2001 and 2002 alone, to Indonesian military and police units assigned to guard the concession, including payments to individual senior officers rather than to state institutional accounts.⁵⁹ Komnas HAM's 2020 investigation into resource-related human rights violations in Papua documents a continuing pattern in which security forces deployed to protect extractive infrastructure have been implicated in killings, forced displacement, and intimidation of Papuan communities asserting customary land claims.⁶⁰

⁵⁹ Global Witness, *Paying for Protection: The Freeport Mine and the Indonesian Security Forces* (Washington, DC: Global Witness, 2005); Jane Perlez and Raymond Bonner, "Below a Mountain of Wealth, a River of Waste," *The New York Times*, December 27, 2005.

⁶⁰ Komnas HAM, *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam* (Jakarta: Komnas HAM, 2020).

Legal Analysis: The Freeport case exemplifies, with unusual clarity, all three elements of the tripartite test developed in Section VI.D above. Vertical attribution is textbook: Papuan grievance is directed not at neighbouring communities but at the joint state-corporate authorisation of the concession, a grievance intensified by the perception, substantiated by the Global Witness findings, that the state's own security apparatus is financially entangled with the corporation it is meant to regulate. Frame alignment is well documented in the political science literature: the Organisasi Papua Merdeka (OPM) has, since the 1970s, incorporated resource dispossession, and Freeport specifically, into its foundational narrative of Papuan colonisation, using the mine as a recruiting symbol independent of, and often more resonant than, purely ideological appeals to Papuan nationalism.⁶¹ Closure of non-violent channels is likewise documented: Amnesty International and Human Rights Watch have repeatedly recorded the prosecution of Papuan activists, including for the non-violent expression of political grievance connected to resource exploitation, under the treason (*makar*) provisions of the Criminal Code, a pattern that forecloses lawful avenues of dissent and, on this article's theorisation, thereby increases the structural incentive toward violent mobilisation.⁶²

The nexus is not confined to Freeport nor to historical conflict. Indonesia's nickel downstreaming policy, pursued since the 2020 raw-ore export ban to build a domestic electric-vehicle battery supply chain, has extended extractive pressure into new areas of eastern Indonesia, including West Papua. In June 2025, following sustained protest by Papuan customary communities and viral public documentation by Greenpeace Indonesia of deforestation and marine sedimentation across the Raja Ampat archipelago, a UNESCO-recognised biodiversity hotspot, the Indonesian government revoked the mining licences of four nickel companies operating on the islands of Gag, Kawe, and Manuran, while permitting a fifth, state-linked concession to continue operating

⁶¹ Richard Chauvel, *Constructing Papuan Nationalism: History, Ethnicity, and Adaptation*, Policy Studies 14 (Washington, DC: East-West Center, 2005), 55-70; Jason MacLeod, *Merdeka and the Morning Star: Civil Resistance in West Papua* (St Lucia: University of Queensland Press, 2015), 112-140.

⁶² Amnesty International, *Indonesia: Investigate Killings and End Impunity in Papua* (London: Amnesty International, 2019); Human Rights Watch, *World Report 2020: Indonesia* (New York: Human Rights Watch, 2020).

under enhanced monitoring.⁶³ The Raja Ampat episode demonstrates both the persistence of the legal-security paradox and, cautiously, the capacity of sustained, lawful protest to compel policy reversal, precisely the outcome the Green Security Law Framework seeks to institutionalise rather than leave to public virality. It also illustrates the risk this article addresses in Section IX.D below: Papuan protestors organising under the banner 'Papua Bukan Tanah Kosong' (Papua Is Not an Empty Land) exercised a constitutionally protected right to peaceful assembly that produced a lawful policy outcome; had that protest instead been read through a securitised counterterrorism lens, as this article cautions against, the same assertion of customary rights could as easily have been treated as a security threat rather than a legitimate exercise of civil and political rights.

The Papua case therefore performs a distinct analytical function in this article's argument. Where Kallista Alam, Adei Plantation, and Wilmar establish that Indonesian courts have doctrinally quarantined corporate environmental liability from its security consequences, Papua demonstrates what that quarantine costs in practice, over decades, in a context where the vertical attribution, frame alignment, and closure of non-violent channels identified above have been most fully realised, and where the human and political costs of the state's failure to develop a Green Security Law Framework have been most acute.

E. Constitutional Court Decision No. 91/PUU-XVIII/2020 (Cipta Kerja) and Its Legislative Aftermath

Though not a criminal case, the Constitutional Court's landmark ruling on the Omnibus Law bears directly on the doctrinal analysis. The Court declared the Job Creation Law 'conditionally unconstitutional' on procedural grounds (inadequate legislative participation), ordering re-enactment within two years. Substantively, however, the Court's majority opinion declined to strike down the environmental deregulation provisions the weakening of environmental impact

⁶³ Hans Nicholas Jong, "Indonesia Halts Most Nickel Mining in Raja Ampat, but Allows One Controversial Permit," Mongabay, June 10, 2025, <https://news.mongabay.com/2025/06/indonesia-halts-most-nickel-mining-in-raja-ampat-but-allows-one-controversial-permit/>.

assessment requirements and the streamlining of licensing processes despite amicus submissions from environmental NGOs arguing that these provisions violated Article 28H(1) (right to a healthy environment).

Legal Analysis: The Court's refusal to engage substantively with the constitutional environmental rights arguments illustrates the anthropocentric and developmental bias of Indonesian constitutional jurisprudence. The majority's silence on the ecological justice dimension of the environmental deregulation provisions its failure to articulate the connection between weakened environmental governance and the constitutional right to a healthy environment is itself a doctrinal failure that reinforces the legal-security paradox⁶⁴. A constitutional court that declines to enforce environmental rights against corporate extractivism legislation effectively authorises, at the highest normative level, the conditions that generate security threats.

This normative gap has not been closed by subsequent legislative action. As Section V.A above details, the Government's issuance of Perppu No. 2/2022 and its ratification as UU No. 6/2023 preserved, and in key respects deepened, the environmental deregulation the Constitutional Court declined to review substantively, while the Constitutional Court's own subsequent decision in Putusan No. 168/PUU-XXI/2023 upheld UU No. 6/2023's formal validity. The legal-security paradox this article identifies has therefore not merely persisted since 2020; it has been legislatively re-authorised twice over, through instruments whose own procedural legitimacy remains doctrinally contested.⁶⁵

F. NORMATIVE CRITIQUE: THE CRISIS OF LEGAL LEGITIMACY

A. Law's Failure to Articulate the Corporation-Resource-Conflict-Security-Terrorism Nexus

The central normative claim of this article can now be stated with full doctrinal force: Indonesian law fails, systematically and structurally, to govern

⁶⁴ Putusan MK No. 91/PUU-XVIII/2020.

⁶⁵ Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang; Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 168/PUU-XXI/2023.

the causal chain from corporate resource extraction to security risk. This failure is not accidental or incidental; it is constitutive of the legal architecture. The doctrinal analysis reveals that each legislative layer UU Minerba, UUPPLH, UU Terorisme was designed with reference to a specific regulatory object (mining, environment, terrorism respectively) without any normative acknowledgment that these objects are causally connected. The result is a 'regulatory silo syndrome' in which each statute addresses a fragment of a systemic problem while the system as a whole generates consequences that no individual statute is designed to govern⁶⁶.

This regulatory failure is not merely inefficient; it is constitutive of injustice. The communities affected by corporate extractivism the Dayak communities of Kalimantan, the Papuan communities of the Meepago and La Pago regions, the fishing communities of the Maluku coast are denied legal recognition of the full spectrum of harm they suffer. Environmental law recognises pollution and ecological destruction, but not displacement, livelihood loss, or political marginalisation. Security law addresses armed violence, but not the structural violence of dispossession that precedes it. The gap between these legal frameworks is not a neutral regulatory space; it is a legally constituted zone of impunity for corporate actors and a legally constituted zone of vulnerability for affected communities.

This normative failure is compounded by law's inability to distinguish, even conceptually, between ordinary horizontal agrarian conflict and the vertically directed, frame-aligned ecological grievance that Section VI.D above theorises as a genuine terrorism precursor. Indonesian dispute-resolution architecture routes both categories through the same institutional channels, land registration courts, adat mediation forums, and, at most, environmental administrative appeal, because the law possesses no doctrinal vocabulary for recognising that a subset of environmental disputes has migrated from horizontal contestation into vertical, ideologically instrumentalised grievance. This is not a failure of institutional capacity alone; it is a failure of legal categorisation. A legal system cannot act on a distinction it does not recognise, and Indonesian

⁶⁶ Komnas HAM, *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam* (Jakarta: Komnas HAM, 2020).

environmental, agrarian, and security law alike treat 'conflict' as an undifferentiated residual category rather than as a spectrum running from ordinary tenure dispute to radicalisation precursor. The consequence, evident in the Papua case analysed in Section VII.D above, is that the state's security apparatus applies a counterterrorism lens selectively and often illegitimately, treating the peaceful assertion of customary rights as suspect while remaining structurally blind to the lawfully authorised corporate conduct that generates the underlying grievance in the first place.

Critical Terrorism Studies (CTS) supplies the final theoretical resource this article requires to complete its normative critique. Where mainstream counterterrorism scholarship treats the definition of terrorism as a settled, largely technical, matter, CTS scholars including Richard Jackson, Marie Breen Smyth, and Jeroen Gunning insist that the category of 'terrorism' is itself a product of state power, constructed through legal and political processes that reflect, and reproduce, existing distributions of authority.⁶⁷ Ruth Blakeley's work extends this critique specifically to the relationship between Northern corporate capital and Southern state violence, arguing that the security forces of resource-exporting states in the Global South frequently function, in practice if not in formal doctrine, as an extension of corporate protection arrangements, a dynamic the Freeport case analysed above illustrates with particular clarity.⁶⁸ Applied to the Indonesian legal-security paradox, the CTS critique explains why UU Terorisme's definitional architecture (see Section V.C above) so readily captures resource-related community mobilisation as a security threat while remaining structurally incapable of recognising state-corporate complicity in generating that mobilisation as a legally cognisable harm in its own right. The law's definition of terrorism is not merely under-inclusive by oversight; it is, in Unger's terms, ideological, reflecting a state-corporate alliance in which the security apparatus defines danger from the standpoint of the extractive state rather than from the standpoint of the communities extractivism dispossesses.⁶⁹

⁶⁷ Richard Jackson, Marie Breen Smyth, and Jeroen Gunning, eds., *Critical Terrorism Studies: A New Research Agenda* (Abingdon: Routledge, 2009), 1-9 and 216-226.

⁶⁸ Ruth Blakeley, *State Terrorism and Neoliberalism: The North in the South* (Abingdon: Routledge, 2009), 34-58.

⁶⁹ Unger, *The Critical Legal Studies Movement*, 15.

This article's proposed Green Security Law Framework, and in particular the human rights safeguards developed in Section IX.D below, is designed precisely to prevent this asymmetry from being reproduced, rather than merely relocated, within a reformed legal architecture.

B. The Crisis of Legal Legitimacy

The concept of legal legitimacy the normative claim that law merits compliance because it embodies principles of justice is directly implicated by the legal-security paradox. A legal system that authorises corporate activity generating foreseeable security consequences, while simultaneously denying those consequences any legal recognition, suffers a crisis of legitimacy in two dimensions. First, it fails the substantive justice criterion: it is not merely inadequate but unjust, because it imposes unrecognised harms on vulnerable communities while conferring unearned immunities on powerful corporate actors. Second, it fails the systemic rationality criterion: a legal system that generates its own security vulnerabilities through its normative architecture is self-undermining, contradicting the foundational Hobbesian premise of law as the instrument of peace and order.

Barda Nawawi Arief's analysis of Indonesian criminal law enforcement identifies institutional and structural impediments to corporate prosecution inadequate prosecutorial capacity, judicial unfamiliarity with corporate governance structures, resource constraints that compound the normative deficiencies identified here. The crisis of legitimacy is therefore dual: not merely normative (the law is structurally unjust) but also operational (even the inadequate norms that exist are systematically under-enforced)⁷⁰. The prescriptive framework this article proposes must therefore address both the normative architecture and the institutional infrastructure of enforcement.

⁷⁰ Barda Nawawi Arief, *Masalah Penegakan Hukum*, 128-147.

G. PRESCRIPTIVE LEGAL FRAMEWORK: THE GREEN SECURITY LAW

A. Foundational Principles

The Green Security Law Framework (GSLF) proposed in this article rests on five foundational normative principles derived from the philosophical and doctrinal analysis above. First, the ecological integrity principle: ecological systems possess intrinsic legal value independent of their instrumental value to human welfare, and their destruction constitutes a legally cognisable wrong regardless of the absence of immediate human injury⁷¹. Second, the structural grievance principle: law must recognise structural environmental grievance systematic community deprivation of ecological resources through corporate extraction as a legally relevant category of harm capable of triggering both civil and criminal legal consequences. Third, the corporate security responsibility principle: corporations whose operations foreseeably generate structural conditions of radicalisation bear a legal duty of care with respect to the security consequences of those operations. Fourth, the integrated governance principle: environmental, security, and counterterrorism law must be designed and implemented as an integrated normative system rather than as autonomous regulatory silos. Fifth, the intergenerational equity principle: resource governance decisions must be assessed against their impacts on the life prospects of future generations, operationalising the Rawlsian difference principle in an intergenerational dimension⁷².

B. Institutional Architecture

The GSLF requires the following institutional innovations within the existing Indonesian constitutional framework. First, a Green Security Impact Assessment (GSIA) requirement, to be incorporated as an amendment to UU Minerba, mandating that all IUP applications above a defined threshold include an assessment of security consequences specifically, the potential for the proposed operation to generate structural grievances in affected communities, to

⁷¹ Higgins, Short, and South, "Protecting the Planet," 251-266, <https://doi.org/10.1007/s10611-013-9413-6>.

⁷² Rawls, *A Theory of Justice*, 284-293.

displace livelihood resources in ways that may incentivise engagement with radical organisations, or to delegitimise state authority in the concession area. The GSIA would be conducted by a multi-agency panel including KLHK, BNPT, and Komnas HAM, with mandatory community participation.

This proposal requires taking a position on a question this article's earlier draft left implicit: should BNPT itself sit on the AMDAL feasibility panel at the licensing stage, or should its role be confined to downstream monitoring? This article's answer is qualified. Direct BNPT participation in the AMDAL feasibility assessment, conducted by the Environmental Feasibility Test Team (Tim Uji Kelayakan Lingkungan Hidup) reconstituted under Peraturan Pemerintah No. 22/2021 following the enactment of UU No. 6/2023,⁷³ is not recommended as a general rule, because embedding a counterterrorism agency within the ordinary business-licensing process risks precisely the securitisation this article warns against in Section IX.D below: it would signal to license applicants, local officials, and affected communities alike that ordinary environmental objection is a matter of counterterrorism concern, chilling the very participatory channels that the structural grievance principle above exists to protect. The better-calibrated design confines BNPT's role to a triggered, evidentiary function: BNPT should receive the GSIA report for every concession that crosses the statutory risk threshold and should be empowered, but not required, to open a security-risk monitoring file, subject to the judicial and proportionality safeguards specified in Section IX.D, only where the GSIA panel documents indicia of the tripartite radicalisation risk identified in Section VI.D (vertical attribution, active frame alignment by an identified political entrepreneur, and closure of non-violent redress channels). BNPT thus functions as a specialised downstream recipient of risk information generated by an environmentally led panel, not as a co-decision-maker in the licensing act itself. This design answers the reviewers' question directly: BNPT involvement is necessary but must be structurally subordinate to, and triggered by, the environmental assessment, not fused with it.

⁷³ Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup, Lampiran IV (Tim Uji Kelayakan Lingkungan Hidup), sebagaimana dipertahankan dalam kerangka Undang-Undang Nomor 6 Tahun 2023.

Second, a corporate security duty provision, to be incorporated as an amendment to UUPPLH, establishing that corporations operating in the extractive sector owe a legally enforceable duty to take reasonable measures to prevent their operations from generating structural conditions of radicalisation. This duty would be operationalised through mandatory community benefit sharing agreements, grievance mechanisms with independent oversight, and periodic security impact audits. Failure to discharge this duty would constitute a criminal offence under the amended UUPPLH, with penalties calibrated to the severity of security consequences foreseeably generated.

The corporate security duty provision also requires the article to take a position on the mens rea question the reviewers posed directly: should the corporate offences in UUPPLH be extended to capture 'indirect financing of political violence'? This article answers affirmatively, but narrowly. Indonesian criminal law already recognises indirect corporate culpability through the governance negligence standard articulated in Adei Plantation (Section VII.B above); extending UUPPLH Articles 116 and 119 to encompass a distinct offence of corporate security negligence would not require importing an unfamiliar mens rea standard so much as applying the existing negligence framework to a newly recognised harm category. The proposed offence would attach corporate criminal liability where a corporation had actual or constructive knowledge, through its own GSIA disclosures, community grievance mechanisms, or documented prior incidents, that its concession-area conduct was generating the tripartite conditions of radicalisation risk identified in Section VI.D, and nonetheless failed to take the reasonable mitigating measures the corporate security duty requires, including functioning grievance mechanisms and benefit-sharing arrangements. This article deliberately declines to extend liability to a freestanding offence of 'indirectly financing' violence in the sense of UU Terorisme's own financing provisions, which require a substantially higher intent threshold appropriate to terrorism financing offences generally; conflating corporate negligence with terrorism financing would import a punitive severity disproportionate to the regulatory harm and would itself risk the securitisation of ordinary corporate environmental non-compliance. The better doctrinal home for this liability is therefore UUPPLH, as an aggravated environmental

corporate offence calibrated to the security consequences of environmental negligence, not UU 'Terorisme's financing provisions, which should remain reserved for cases meeting the existing, and appropriately demanding, terrorism-financing evidentiary standard.

Third, an extractivism precursor provision in UU 'Terorisme, recognising 'systematic environmental grievance generated by corporate extractivism' as a legally designated terrorism precursor requiring preventive intervention by BNPT⁷⁴. This provision would obligate BNPT to monitor, report on, and recommend executive action in response to concession areas where corporate operations have generated documented community grievance meeting defined threshold criteria. This institutionalises the extractivism-security nexus within the counterterrorism apparatus without criminalising community grievance or protest.

C. Judicial Implementation

The GSLF's judicial dimension requires the Supreme Court to develop whether through new legislation, Supreme Court Regulation (Peraturan Mahkamah Agung/PERMA), or the development of existing case law a jurisprudential framework that: (1) permits environmental criminal courts to consider security consequences of corporate environmental crime in sentencing; (2) enables affected communities to bring civil claims for security harm as distinguished from, and in addition to, environmental harm arising from corporate extractivism; and (3) requires environmental impact assessments to include security impact dimensions, making their omission grounds for licensing challenge by affected communities. The ratio decidendi of Adei Plantation governance negligence provides a doctrinal foundation upon which the Supreme Court can build a security governance negligence standard without requiring statutory amendment.

⁷⁴ UU No. 5 Tahun 2018, Pasal 43A-43J, <https://peraturan.bpk.go.id/Details/82689/uu-no-5-tahun-2018>.

D. Human Rights Safeguards: Guarding Against the Securitisation of Environmental Dissent

No prescriptive framework that extends the counterterrorism apparatus into environmental governance can be normatively defensible unless it confronts, directly and at the level of institutional design, the risk that it will be turned against the very communities it is intended to protect. Critical Security Studies, and in particular the Copenhagen School's theory of securitisation associated with Barry Buzan, Ole Waever, and Jaap de Wilde, supplies the analytical vocabulary for this risk. Securitisation theory demonstrates that framing an issue as a security threat is itself a political speech act with material consequences: it removes the issue from the register of ordinary contestable politics and relocates it into an exceptional register in which extraordinary, often rights-limiting, measures become presumptively justified.⁷⁵ A Green Security Law Framework that is not carefully bounded risks performing exactly this move, transforming the Indonesian state's historic tendency to treat indigenous and environmental assertion as subversive, evident in the makar prosecutions of Papuan activists analysed in Section VII.D above and in the treatment of Budi Pego, an environmental defender convicted, and on appeal in 2023 given an increased sentence, for disseminating communist ideology after leading protests against the Tumpang Pitu gold mine in Banyuwangi, into a formally legalised security architecture, rather than displacing that tendency.⁷⁶ Global Witness's annual documentation of the criminalisation and killing of environmental and land defenders confirms that this risk is neither speculative nor unique to Indonesia; it is a globally recurrent pattern wherever environmental grievance and state security power intersect without adequate constitutional constraint.⁷⁷

This article accordingly proposes that the Green Security Law Framework be adopted only together with the following binding safeguards, which are not

⁷⁵ Barry Buzan, Ole Waever, and Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998), 21-47.

⁷⁶ Amnesty International, *Environmental Rights Defender Must Be Released: Heri Budiawan, Known as Budi Pego* (London: Amnesty International, 2023).

⁷⁷ Global Witness, *Last Line of Defence: The Industries Causing the Climate Crisis and Attacks Against Land and Environmental Defenders* (London: Global Witness, 2021).

peripheral qualifications but constitutive conditions of the Framework's legitimacy.

First, a categorical exclusion clause. Peaceful protest, public advocacy, litigation, media reporting, and the customary (*adat*) assertion of land rights are categorically excluded from the definition of 'structural grievance' capable of triggering BNPT's monitoring function under Section IX.B above, regardless of their content or the political sensitivity of their target. Only conduct that independently satisfies UU Terorisme's existing evidentiary threshold for incitement to, planning of, or material support for violence may trigger security-law consequences; ecological grievance and frame alignment are relevant only as contextual factors in assessing risk to a concession area, never as a substitute for this evidentiary threshold with respect to any individual or organisation.

Second, independent authorisation. Any decision to open a BNPT monitoring file under the extractivism precursor provision requires prior authorisation by a panel constituted jointly by Komnas HAM and the Ombudsman of the Republic of Indonesia, sitting independently of the executive licensing authority, modelled on the independent authorisation required for other exceptional state powers. This displaces the alternative of unilateral executive designation, which this article regards as the single greatest securitisation risk in the Framework as originally sketched.

Third, proportionality and necessity review, calibrated to the standard Indonesia has already accepted through its ratification of the International Covenant on Civil and Political Rights: any restriction on assembly, expression, or association arising from a GSIA-triggered designation must be prescribed by law, demonstrably necessary to a legitimate security aim, and proportionate to that aim, with the burden of establishing necessity and proportionality resting on the state.⁷⁸

Fourth, sunset and periodic review. A monitoring designation lapses automatically after twelve months unless affirmatively renewed by the Komnas HAM-Ombudsman panel on a fresh evidentiary record, and is subject to

⁷⁸ International Covenant on Civil and Political Rights, adopted 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), arts. 19(3) and 21, ratified by Indonesia through Undang-Undang Nomor 12 Tahun 2005.

challenge at any time by the affected community before the administrative courts (Pengadilan Tata Usaha Negara), with standing extended broadly to affected adat communities and accredited environmental organisations.

Fifth, an accessible remedy. Communities or individuals wrongly subjected to a security designation must have access to an expedited complaint mechanism before the Komnas HAM-Ombudsman panel, with a statutory duty to investigate and respond within sixty days, and a right to compensation where wrongful designation is established.

These safeguards do not weaken the Green Security Law Framework; they are what distinguishes it, both analytically and normatively, from the securitisation dynamic this article otherwise risks reproducing. A framework capable of recognising Freeport's documented payments to Indonesian security forces as a legally relevant security risk, while categorically incapable of relabelling a Raja Ampat protest banner or a Papuan customary rights claim as 'eco-terrorism,' is the only version of this article's proposal consistent with the constitutional rights to expression, assembly, and a healthy environment upon which the whole of this article's normative argument depends.

IV. Conclusion

This article has demonstrated, through normative doctrinal analysis, that Indonesian law sustains a structural paradox: it simultaneously authorises corporate resource extraction as lawful developmental activity and fails to govern the security consequences that extractivism foreseeably generates. This paradox is not incidental but constitutive of the current legal architecture, which governs environmental harm, corporate liability, and counterterrorism through discrete regulatory silos that collectively fail to address the causal chain from extraction to conflict to security risk.

The philosophical analysis grounds this critique in green criminology's challenge to the anthropocentrism of mainstream legal thought, Rawlsian intergenerational justice, and the CLS critique of law as ideology. Together, these frameworks demonstrate that the legal-security paradox is not merely a

regulatory design failure but a manifestation of structural legal injustice: law that privileges corporate extractive interests over community rights and ecological integrity, thereby constituting rather than preventing the conditions for political violence.

The doctrinal analysis of UU Minerba, UUPPLH, and UU Terorisme has identified three specific normative gaps: the absence of any legal pathway from corporate environmental crime to security law scrutiny; the absence of corporate accountability for the security consequences of extractivism; and the absence of any legally defined concept of environmental grievance as terrorism precursor. These gaps, confirmed by the case analysis of PT. Kallista Alam, PT. Adei Plantation, and the Wilmar Group litigation, constitute a crisis of legal legitimacy that the Indonesian state must urgently address.

The Papua extractive political economy, together with the 2025 Raja Ampat nickel controversy and the government's 2022-2023 re-enactment of the Job Creation Law as UU No. 6/2023, demonstrates that this crisis has neither abated nor been substantively addressed by subsequent legislative action; if anything, the narrowing of AMDAL participation under UU No. 6/2023 has deepened the very conditions of grievance and closed redress that this article identifies as radicalisation precursors.

The prescriptive response the Green Security Law Framework proposes integrated normative architecture reconciling environmental, security, and counterterrorism law through five foundational principles and three specific institutional innovations: the Green Security Impact Assessment, the corporate security duty, and the extractivism precursor provision. This framework does not require abandonment of Indonesia's developmental commitment to natural resource governance; it requires that this commitment be exercised through legal instruments adequate to the security consequences of extractivism, so that the state ceases to be structurally complicit in generating its own vulnerabilities. Crucially, this framework is proposed only in conjunction with the human rights safeguards developed in Section IX.D, without which the extension of security

law into environmental governance would risk reproducing, under a reformist banner, the very securitisation of legitimate environmental and indigenous dissent that this article's Critical Security Studies analysis warns against.

The practical implication of this article is that law reform in this domain is not optional. As climate change intensifies resource scarcity, as community resistance to extractivism grows, and as security threats in resource-rich regions escalate, the legal-security paradox of green extractivism will produce increasingly severe consequences. The Green Security Law Framework provides the normative blueprint for a legal response adequate to this challenge one that is philosophically grounded, doctrinally rigorous, and capable of implementation within Indonesia's existing constitutional framework.

V. References

Primary Legal Sources

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 [Constitution of the Republic of Indonesia 1945], Articles 28H(1) and 33(3).
- Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 4, sebagaimana diubah dengan Undang-Undang Nomor 3 Tahun 2020.
- Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 140.
- Undang-Undang Nomor 5 Tahun 2018 tentang Perubahan atas Undang-Undang Nomor 15 Tahun 2003 tentang Pemberantasan Tindak Pidana Terorisme, Lembaran Negara Republik Indonesia Tahun 2018 Nomor 92.
- Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja, Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245.
- Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja.
- Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang

Cipta Kerja Menjadi Undang-Undang, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41.

Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup, Lembaran Negara Republik Indonesia Tahun 2021 Nomor 31.

International Covenant on Civil and Political Rights. Adopted 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976). Ratified by Indonesia through Undang-Undang Nomor 12 Tahun 2005.

Judicial Decisions

Mahkamah Agung Republik Indonesia. Putusan Nomor 2555 K/Pid.Sus-LH/2018 (PT. Kallista Alam).

Mahkamah Agung Republik Indonesia. Putusan Nomor 3051 K/Pid.Sus-LH/2019 (PT. Adei Plantation & Industry).

Mahkamah Konstitusi Republik Indonesia. Putusan Nomor 91/PUU-XVIII/2020 (Cipta Kerja).

Pengadilan Negeri Palembang. Putusan Nomor 799/Pid.Sus-LH/2015/PN.Plg (Wilmar Group Subsidiaries).

Mahkamah Konstitusi Republik Indonesia. Putusan Nomor 168/PUU-XXI/2023, mengenai pengujian formil Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang.

Books and Monographs

Arief, Barda Nawawi. Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan. Jakarta: Kencana, 2008.

Ford, Anabel, and Ronald Nigh. The Maya Forest Garden: Eight Millennia of Sustainable Cultivation of the Tropical Woodlands. Walnut Creek: Left Coast Press, 2015.

Hayward, Tim. Constitutional Environmental Rights. Oxford: Oxford University Press, 2005.

Higgins, Polly. Eradicating Ecocide: Laws and Governance to Stop the Destruction of the Planet. London: Shephard-Walwyn, 2010.

- Irianto, Sulistyowati, and Lim Sing Meij, eds. *Praktik Penelitian Hukum: Perspektif Sosio-Legal*. Yogyakarta: Pustaka Pelajar, 2009.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Revised edition. Jakarta: Kencana, 2017.
- Rahmadi, Muhammad Takdir. *Hukum Lingkungan di Indonesia*. 3rd edition. Jakarta: Raja Grafindo Persada, 2021.
- Rawls, John. *A Theory of Justice*. Cambridge: Harvard University Press, 1971.
- Sands, Philippe. *Ecocide: Kill the Corporation Before It Kills Us*. London: Wren & Rook, 2021.
- South, Nigel, and Tanya Wyatt, eds. *Hazardous Waste and Pollution: Detecting and Preventing Green Crimes*. Dordrecht: Springer, 2011.
- Takacs, David. *The Idea of Biodiversity: Philosophies of Paradise*. Baltimore: Johns Hopkins University Press, 1996.
- Unger, Roberto Mangabeira. *The Critical Legal Studies Movement*. Cambridge: Harvard University Press, 1986.
- White, Rob. *Crimes Against Nature: Environmental Criminology and Ecological Justice*. Cullompton: Willan Publishing, 2008.
- Blakeley, Ruth. *State Terrorism and Neoliberalism: The North in the South*. Abingdon: Routledge, 2009.
- Buzan, Barry, Ole Waever, and Jaap de Wilde. *Security: A New Framework for Analysis*. Boulder, CO: Lynne Rienner, 1998.
- Chauvel, Richard. *Constructing Papuan Nationalism: History, Ethnicity, and Adaptation*. Policy Studies 14. Washington, DC: East-West Center, 2005.
- Gurr, Ted Robert. *Why Men Rebel*. Princeton, NJ: Princeton University Press, 1970.
- Jackson, Richard, Marie Breen Smyth, and Jeroen Gunning, eds. *Critical Terrorism Studies: A New Research Agenda*. Abingdon: Routledge, 2009.
- MacLeod, Jason. *Merdeka and the Morning Star: Civil Resistance in West Papua*. St Lucia: University of Queensland Press, 2015.

Journal Articles

- Afriansyah, Arie. 'Indonesia's Counter-Terrorism Framework: Balancing Security and Human Rights.' *Indonesian Journal of International Law* 16, no. 3 (2019): 341-368.
- Brack, Duncan. 'Illegal Logging.' Briefing Paper. London: Chatham House, 2014.
- Gudynas, Eduardo. 'Buen Vivir: Today's Tomorrow.' *Development* 54, no. 4 (2011): 441-447. <https://doi.org/10.1057/dev.2011.86>.
- Higgins, Polly, Damien Short, and Nigel South. 'Protecting the Planet: A Proposal for a Law of Ecocide.' *Crime, Law and Social Change* 59, no. 3 (2013): 251-266. <https://doi.org/10.1007/s10611-013-9413-6>.
- Kartodihardjo, Hariadi, et al. 'Forest and Land Governance in Indonesia: Regulatory Pluralism, Conflict, and the State.' *Forest Policy and Economics* 108 (2019): 101973. <https://doi.org/10.1016/j.forpol.2019.101973>.
- Lynch, Michael, and Paul Stretesky. 'The Meaning of Green: Contrasting Criminological Perspectives.' *Theoretical Criminology* 7, no. 2 (2003): 217-238.
- Nolan, Mary. 'The Green New Deal: Environmentalism and Capitalism.' *New Labor Forum* 28, no. 2 (2019): 10-19. <https://doi.org/10.1177/1095796019833680>.
- Shearing, Clifford, and Jennifer Wood. 'Nodal Governance, Democracy, and the New Denizens.' *Journal of Law and Society* 30, no. 3 (2003): 400-419.
- Collier, Paul, and Anke Hoeffler. "Greed and Grievance in Civil War." *Oxford Economic Papers* 56, no. 4 (2004): 563-595. <https://doi.org/10.1093/oep/gpf064>.
- Cramer, Christopher. "Homo Economicus Goes to War: Methodological Individualism, Rational Choice and the Political Economy of War." *World Development* 30, no. 11 (2002): 1845-1864. [https://doi.org/10.1016/S0305-750X\(02\)00120-1](https://doi.org/10.1016/S0305-750X(02)00120-1).
- Putra, Antoni. "Pengabaian Prinsip Partisipasi Masyarakat dalam Undang-Undang Cipta Kerja." *Jurnal Yudisial*. Jakarta: Komisi Yudisial Republik Indonesia, 2023.

Snow, David A., and Robert D. Benford. "Ideology, Frame Resonance, and Participant Mobilization." *International Social Movement Research* 1 (1988): 197-217.

Reports

BNPT (Badan Nasional Penanggulangan Terorisme). *Laporan Tahunan Pemberantasan Terorisme 2022*. Jakarta: BNPT, 2022.

Komnas HAM. *Laporan Penyelidikan Pelanggaran HAM di Papua Terkait Konflik Sumber Daya Alam*. Jakarta: Komnas HAM, 2020

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