



Human Rights-Based Interdisciplinary Analysis Model of the Politics of Law, Political Economy, the Environment, and Global Governance

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Abstract

Background: National Strategic Projects (PSN) in Indonesia possess constitutional legitimacy under Article 33 paragraph (3) of the 1945 Constitution; however, their implementation has contributed to increasing agrarian conflicts and community criminalization. In 2023, 241 agrarian conflicts affected 638,188 hectares across 346 villages, involving 135,608 victims, including 21 PSN-related conflicts covering 243,556 hectares and affecting 3,464 victims.

Objective: This study examines the State Capture Chain in strategic development through an interdisciplinary perspective integrating political law, political economy, global governance, and human rights.

Methods: This research applies a normative juridical approach supported by the Strategic Environmental and Social Assessment (SESA) framework and an eight-stage State Capture Chain Analytical Framework to identify policy-capture mechanisms in strategic development governance.

Results: The findings reveal that regulatory frameworks, including the Job Creation Law, indicate potential policy capture by oligarchic interests, weakening the substantive interpretation of public interest and enabling extensive exploitation of natural resources and land. This reflects a transition from a welfare-state paradigm toward an investment-state orientation, where legal instruments, public financing, and state institutions increasingly prioritize economic growth and investment objectives.

Conclusion: The study concludes that insufficient human rights safeguards and carbon-emission governance pose risks to PSN sustainability and the acceptance of downstream products in global green markets. Strengthening accountability requires institutionalizing the Strategic Environmental and Social Management Plan (SESMP) and applying restorative justice mechanisms to protect affected communities and prevent state-capture practices that undermine public interests.

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INTRODUCTION

The implementation of national strategic development is a fundamental mandate of the modern state to realize public welfare (Abrianto et al., 2020; Kasmawati et al., 2024). Constitutionally, National Strategic Projects (PSN) derive strong legitimacy from the President's executive authority under Article 4, paragraph (1), of the 1945 Constitution of the Republic of Indonesia, which is reinforced by the mandate of Article 33, paragraph (3), to control natural resources for the maximum prosperity of the people. This constitutional mandate underscores the indispensable role of law in the development and transformation of an orderly contemporary society.

It is particularly interesting, therefore, to examine more closely the relationship between

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law and development. Development, in the broadest sense, according to Mochtar Kusumaatmadja (2002), encompasses all aspects of people's lives and not merely the economic dimension; therefore, the term "economic development" is inappropriate because we cannot develop the economy of a society without also considering the development of other aspects of people's lives. In fact, in Mochtar's view, all developing societies are characterized by change, regardless of how we define development and whatever measures we use to assess a society undergoing development. The role of law in development is to ensure that such change occurs in an orderly manner.

Furthermore, within the framework of realizing orderly change in society and the state, such change can be facilitated through legislation, court decisions, or a combination of both. In Mochtar's reasoning, orderly change through legal procedures, whether in the form of legislation or judicial decisions, is preferable to irregular change brought about using force alone. Because, fundamentally, both change and order are twin goals of a developing society, law becomes a tool that cannot be ignored in the development process. Given the importance of the position of law when it intersects with development in society and the developing state, law, according to Mochtar, is interpreted as a means of social reform. This conception is historically similar to the concept of law as a tool of social engineering, which in Western countries was first popularized by what is known as the school of Pragmatic Legal Realism (Pound, 2017).

Given the importance of the existence and essence of law as a means of orderly social reform, it is necessary to examine the legal politics underlying the formation of law. In the discourse on legal policy, as emphasized by Moh. Mahfud MD (1998), law is often a political product that reflects the configuration of power behind it; whether it is democratic-responsive or orthodox-conservative depends largely on the will of the political elite. Mahfud explains that legal politics can be simply formulated as the legal policy that will be or has been implemented nationally by the government. It also encompasses an understanding of how politics affects law by examining the configuration of power behind the making and enforcement of law (Siagian, 2024).

A number of academic discourses concerning the configuration of legal politics and its influence on the character of the resulting legal products, as well as the meaning of law when it intersects with development as described above, become particularly relevant when examining the "legal politics of strategic development and the prevention of state capture based on human rights" today. In the Indonesian context, the ambition to accelerate the PSN, which includes more than 200 projects with investments amounting to thousands of trillions of rupiah, creates a sharp structural tension between macroeconomic growth and the protection of citizens' constitutional rights.

Furthermore, the acceleration of the implementation of National Strategic Projects (PSN) has generated significant legal and social implications. Conceptually, the main objectives of PSN include promoting economic growth, accelerating equitable development, creating employment opportunities, improving community welfare, enhancing national competitiveness, and reducing regional disparities. Within this framework, PSN is granted various privileges, including simplified licensing procedures, accelerated land acquisition, and special facilities to support the implementation of strategic projects (Riwanto, 2026). However, the exceptional treatment or privileges granted to PSN must not deviate from the principle of the rule of law (*Rechtsstaat*), which requires every government action to comply with the principles of legality, legal certainty, and human rights protection. Accordingly, this study examines several critical issues, including how regulatory capture mechanisms operate within PSN environmental assessments; the role of oligarchic-state linkages in legitimizing projects with insufficient environmental due diligence; the extent to which SESA indicators can predict the severity of state capture; and the governance structures required to prevent and mitigate such capture.

The operationalization of SESA-ESQO employs a State Capture Indicator Score on a 0–100 scale to measure the severity of regulatory capture based on five dimensions: (i) conflict of interest within permitting bodies (0–20 points); (ii) adequacy of Environmental Impact Assessment (EIA) (0–25 points); (iii) documentation of stakeholder participation (0–20 points); (iv) responsiveness to remedial actions (0–20 points); and (v) prevalence of legal challenges (0–15 points). In addition, the Agrarian Vulnerability Index, also measured on a 0–100 scale, assesses

displacement risk through four dimensions: (i) landholding security documentation (0–25 points); (ii) livelihood dependency on disputed land (0–25 points); (iii) availability of legal recourse (0–25 points); and (iv) strength of social support networks (0–25 points). Scores are assigned through document review, case law analysis, and cross-referencing of NGO reports. The combined SESA-ESQO composite score is then used to classify the severity of the state-capture chain into three categories: minimal capture (0–30), moderate capture (31–60), and severe capture (61–100).

This condition reflects the operation of the "State Capture Chain." Referring to the thesis of Joel S. Hellman, Geraint Jones, and Daniel Kaufmann, state capture is a phenomenon in which elite actors, whether companies or individuals, are able to shape the rules of the game through collusion with public officials in order to direct state policies toward private interests (Hellman et al., 2000).

In Indonesia, an evaluation of the legal politics underlying the formation of laws and regulations shows that state capture is manifested through "policy smuggling" in regulations such as Law Number 11 of 2020 concerning Job Creation, which was subsequently amended through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. Legal politics surrounding the Omnibus Law, particularly the Job Creation Law, are certainly shaped by the economic and political motives underlying it. At the same time, this type of public policy is not only heavily influenced by the motive of the "political economy of power," which serves oligarchic and political cartels, but also contains controversies concerning oligarchy and challenges to democracy itself. This can be seen from the profiles of the 12 main actors and their business linkages with the Omnibus Law. They are essentially politicians and public officials (rule-makers) and, in other respects, are also recorded as entrepreneurs (economic actors) (Sabarudin, 2024).

A critical analysis of the political evolution of Law Number 6 of 2023 on Job Creation is clearly illustrated by the conditions of systemic and institutional state capture, regulatory capture, policy capture, and ultimately budget capture in the context of strategic development studies in Indonesia. In the praxis of power, this is manifested through the deployment of state institutions, including legal institutions and public budgets (APBN/APBD and SOEs), which are channeled through the State Asset Management Agency (*Lembaga Manajemen Aset Negara*, LMAN).

Not only that, state apparatuses such as the bureaucracy (ministries, institutions, and state agencies) and coercive apparatuses (TNI-Polri) are deployed to facilitate the legal seizure of community land to perpetuate the extractive economic and business practices of ruling groups and businesspeople. In fact, this process involves the rapid and legally sanctioned reorganization and reconstruction of agrarian resources (SDA) for the opening of new areas of exploitation. Such conditions largely guarantee that business actors can obtain land while also securing favorable legal frameworks and access to a labor force whose wages can be considered relatively low (Septian, 2023).

The political-economic posture of power, when read through the lens of Jeffrey Winters, essentially reflects the proposition that oligarchic power lies in the nature of its structure, namely, a power structure that operationally develops wealth-defense strategies in order to maintain an exclusive social position (Widjaja, 2022). Winters's concept can be applied to an analysis of the PSN, particularly in the expansion of the mining, tourism, and industrial-estate sectors within the "Public Interest" cluster, which facilitates the legal acquisition of land for the pursuit of wealth (economic power) and political power. This form of organization, drawing on the thesis of Robison & Hadiz (2004), demonstrates how Indonesia's economic and political elite is able to reorganize itself and transform while being supported by neoliberal schemes, such as democratization, decentralization, and deregulation within democratic institutions, in order to maintain control over strategic resources and avoid meaningful public participation in the contemporary context.

It must be acknowledged that the appointment of the 12 main actors in the context of the formulation and discussion of the Omnibus Law on Job Creation in 2020, which placed a number of business and political actors in strategic positions (namely, as members of the task force (*Satgas*) representing the government and the working committee (*Panja*) representing the House of Representatives at that time) played a significant role in accelerating the enactment of the Job Creation Law. They essentially had direct and indirect connections with the strategic industrial sector, further emphasizing the existence of an oligarchic cartel in the politics of

legislation in Indonesia.

Conceptually, according to Boni, oligarchic cartels essentially operate using the *modus operandi* of political cartels, but their defining characteristic is oligarchy. Thus, oligarchic cartelization is not a postulation intended to convey the same meaning as the "collusive democracy" developed by Slater (2018), but rather refers to a tendency toward the control of economic and political resources by ruling elites with an oligarchic disposition who operate according to cartel-like patterns because they obtain privileges from the collusive interpenetration between political parties and the state (Hargens, 2020).

Empirical reality demonstrates the existence of systemic anomalies reflected in the surge in agrarian conflicts in Indonesia. Data from the Agrarian Reform Consortium (KPA) noted that throughout 2021, there was a 73% increase in infrastructure-related agrarian conflicts, of which 38 cases were directly associated with PSN, a drastic jump of 123% compared with the previous year (Nurnaningsih, 2022). Cumulatively, from 2020 to 2023, PSN-related conflicts covered an area of 516,409 hectares and affected more than 85,000 families (Samodro, 2026).

METHOD

This research used a qualitative-analytical type of normative legal research. Given the complexity of the cross-sectoral object of study, this study applied an interdisciplinary approach that integrated seven disciplines: legal politics, human rights and governance, business and human rights, natural resource governance (SDA), development law, political economy, and strategic and global studies.

The operational approaches used included: (1) the statute approach, to examine the consistency of strategic development regulations and the Job Creation Law; (2) the conceptual approach, to evaluate the state capture model and the paradigm shift from the welfare state toward the investative state; (3) the case approach, to dissect the legal anatomy of strategic development locations or specific PSNs; and (4) the historical approach, to trace the evolution of legal politics and regulations aimed at accelerating the development of strategic projects.

1. Primary Legal Materials: These included the 1945 Constitution of the Republic of Indonesia; Law Number 6 of 2023 concerning Job Creation; Law Number 2 of 2012 concerning Land Acquisition; Presidential Regulation Number 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of the Implementation of National Strategic Projects; Regulation of the Coordinating Minister for Economic Affairs Number 16 of 2025 concerning the Eighth Amendment to Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Amendments to the National Strategic Project List; and Constitutional Court Decision Number 91/PUU-XVIII/2020 concerning Law Number 11 of 2020 on Job Creation.
2. Secondary Legal Materials: These consisted of 12 previously published scientific journal articles; theoretical and conceptual books on state capture (Hellman et al., 2000); books on oligarchs and oligarchic cartels (Winters, 2011; as well as authoritative investigative reports from the Lokataru Foundation (2025) and agrarian conflict monitoring reports from the Agrarian Reform Consortium (KPA, 2021–2023).
3. Tertiary Legal Materials: These consisted of legal dictionaries and encyclopedias used to complement the interpretation of technical terms.

The main analytical instrument of this study was the eight-stage (1–8) State Capture Chain Analytical Framework developed by the researcher to analyze and evaluate the depth of state capture in strategic development governance and its impact on the neglect of fundamental public rights in contemporary development design (see Figure 1):

Table 1

State Chain of Control Analysis Framework Model

Stages	Dimensions of Mastery	Focus of Analysis	Key Indicators
1	Mastery of Policy Ideas and Agendas (Ideological / Agenda Capture)	Formation of policy direction from the conceptual stage	• Formation of public narratives • Discourse production • Development framing

				• Preparation of the national agenda • Legislation • Government Regulations • Licensing • Deregulation • State Budget/Regional Budget • State-Owned Enterprises
2	Regulatory Capture	/ Policy	Control of legal and regulatory instruments	
3	Budgetary Capture	/ Financial	Mastery of state funding sources	• Financing • Overseas investment and loans • Private financing • PPP • Office placement • Bureaucracy • SOEs • Security apparatus • Technical team
4	Mastery of Actors and Institutions (Institutional / Personnel Capture)		Institutional dominance of the state	• Contractors • Operator • Corporation • Project implementer • Economic advantages • Concessions • Monopoly • Rent Seeking • Capital accumulation • Human Rights Violations • Land grabbing • Environmental damage • Social conflict • Social exclusion • Policy normalization
5	Implementation Capture		Mastery of project implementation	
6	Benefit Capture		Mastery of economic profits	
7	Rights Deprivation		Impact on society	
8	Legitimation and Reproduction of Power		Reproduction of the state capture cycle	• Weakening of supervision • Strengthening the oligarchy • State Capture Reproduction

To measure the impact objectively, this study adopted the Strategic Environmental and Social Assessment (SESA) approach. The evaluation was conducted by establishing the Environmental, Social, and Quality Objective (ESQO) as a substantive standard for the protection of human rights and the environment. SESA is a systematic approach that addresses not only impacts at the project level but also those at the policy and program levels. In this study, SESA addressed ecological, social, political-economic, and governance aspects and was further developed as an umbrella framework integrating the interdisciplinary fields examined in the research: legal politics, development law, political economy, business and human rights, human rights and good governance, natural resource governance, and global strategic studies. Furthermore, to measure policy deviations from ideal conditions, SESA used the Environmental, Social, and Quality Objective (ESQO) as a normative framework. This enabled the researchers to assign a net score ranging from -3 (critical/severe violation) to +3 (superior score), producing a composite net score that determined the risk category: (1) Urgent Handling Priority (-8 to -12); (2) Focused Mitigation (-4 to -7); (3) Governance Optimization (0 to -3); and (4) Strategic Strengthening Opportunities (+1 to +12).

Data were collected through library research and digital document searches. Data analysis was conducted descriptively and analytically using data triangulation techniques to validate cross-findings among regulations, field realities (investigative and monitoring reports), and expert perspectives and to minimize subjective bias (Soekanto, 2007).

RESULTS AND DISCUSSION

Results

Anatomy of Policy Capture: The Political Evolution of Strategic Development Law and the Dominance of Oligarchic Cartels

The phenomenon of state capture in Indonesia is not merely a procedural deviation but the result of the design and construction of an oligarchic cartel, illustrating the interrelationship between economic forces (oligarchs), on the one hand, and political forces (political cartels), on the other, that succeed in controlling public authority for private accumulation. An analysis of the political evolution of strategic development law, for example, reveals a systematic pattern of “legal smuggling,” in which state instruments are deliberately rendered fragile and susceptible to intervention by the interests of business and political elites ([Hellman et al., 2000](#)).

Stages of Political Evolution of Strategic Development Law

Research on regulatory developments reveals a paradigm transformation from the protection of citizens' rights toward an “investative state,” which can be observed through the following important milestones:

a. Standardization Phase (Law No. 2 of 2012): Initially, land acquisition was strictly limited to 18 types of development classified as being in the public interest, primarily involving basic public services. However, following the enactment of the Job Creation Law, Law No. 11 of 2020, and subsequently Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation as a Law, the regulations governing land acquisition for public-interest development were expanded. Through the Job Creation Law, six additional sectors were categorized as development for the public interest: upstream and downstream oil and gas activities; special economic zones (SEZs); industrial zones; tourism zones; food security zones; and technology development areas ([Mindan Cahyani & Rahman, 2021](#)).

b. Executive Acceleration Phase (Presidential Regulation No. 3 of 2016 jo. Presidential Regulation No. 109 of 2020): This phase is marked by the beginning of the era of National Strategic Projects (PSNs), which provided a “green path” for large-scale projects. At the same time, the government began to demonstrate a top-down disposition in strategic development that disregarded public consultation and the rights of Indigenous Peoples. The form of executive acceleration in PSN policy can be seen in several of the following changes to the rules of the game ([Project Multatuli, 2026](#)):

1. Presidential Instruction No. 1 of 2016: The President of the Republic of Indonesia, Joko Widodo, instructed the Ministers of the Working Cabinet, the Attorney General of the Republic of Indonesia, the Chief of the Indonesian National Police, the Cabinet Secretary, the Presidential Chief of Staff, the heads of non-ministerial government institutions, governors, and regents/mayors to accelerate the implementation of national strategic projects;
2. Presidential Regulation No. 3 of 2016: The President of the Republic of Indonesia designated 225 National Strategic Projects and programs, with the general details of the clusters and numbers as follows: (a) toll-road infrastructure development projects, namely 47 PSNs; (b) non-toll national road/strategic road infrastructure development projects, totaling 5 PSNs; (c) intercity railway infrastructure development projects, totaling 12 PSNs; (d) urban railway infrastructure development projects, totaling 7 PSNs; (e) airport revitalization projects, totaling 11 PSNs; (f) new airport construction projects, totaling 4 PSNs; (g) other strategic airport projects, totaling 2 PSNs; (h) new port construction and capacity-development projects, totaling 13 PSNs; (i) the One Million Houses Program, totaling 3 PSN programs; (j) oil refinery construction projects, totaling 3 PSNs; (k) LPG gas pipeline/terminal projects, totaling 3 PSNs; (l) waste-to-energy infrastructure projects, totaling 1 PSN; (m) drinking-water infrastructure provision projects, totaling 8 PSNs; (n) communal wastewater system infrastructure provision projects, totaling 1 PSN; (o) flood-mitigation embankment construction projects, totaling 1 PSN; (p) cross-border post (PLBN) construction projects and supporting facilities, totaling 7 PSNs; (q) dam projects, totaling 60 PSNs; (r) broadband coverage improvement programs, totaling 2 PSN programs; (s) other strategic science

and technology infrastructure projects, totaling 1 PSN; (t) priority industrial estate/special economic zone development projects, totaling 24 PSNs; (u) tourism development projects, totaling 10 National Tourism Strategic Areas (KSPNs) and 7 other areas; (v) smelter construction projects, totaling 6 PSNs; (w) agricultural and marine projects; and (x) electricity infrastructure development programs.

3. Presidential Regulation No. 58 of 2017: Addition of 55 projects and 1 PSN program.
4. Presidential Regulation No. 56 of 2018: Addition of 2 projects and 1 PSN program.
5. Presidential Regulation No. 109 of 2020: Addition and implementation of 88 projects and 5 PSN programs.
6. Regulation of the Coordinating Minister for Economic Affairs No. 7 of 2021: Addition of 7 PSN projects.
7. Regulation of the Coordinating Minister for Economic Affairs No. 9 of 2022: Addition of 13 projects and 2 PSN programs.
8. Regulation of the Coordinating Minister for Economic Affairs No. 7 of 2023: Addition of 1 project and 1 PSN program.
9. Regulation of the Coordinating Minister for Economic Affairs No. 8 of 2023: Addition of 5 PSN projects.
10. Regulation of the Coordinating Minister for Economic Affairs No. 6 of 2024: Addition of 14 projects and 2 PSN programs; and
11. Regulation of the Coordinating Minister for Economic Affairs No. 12 of 2024: Addition of 10 projects and 1 PSN program.

c. Policy Smuggling Phase (Law No. 11 of 2020 *jo.* Law No. 6 of 2023): Through the omnibus law on job creation, the oligarchic cartel has succeeded in reformulating the definition of “public interest” by including commercial sectors such as priority industrial areas/special economic zones, tourism, and mining. It must be acknowledged that this represents a particularly overt manifestation of “policy capture” in the politics of legislation in Indonesia. In this context, the law is used to legitimize land acquisition for the benefit of private investors while framing it within the narrative of national strategic development. In fact, the author’s 2020 study of the omnibus law identified this policy as likely to generate controversy, strengthen oligarchic power, and threaten the future of democracy in Indonesia. From the outset, the omnibus law was designed to provide a “red carpet” for the flourishing of “oligarchic cartels” in Indonesia.

d. Institutionalization of Capture Phase (PP No. 19 of 2021 and PP No. 42 of 2021): These derivative regulations strengthen centralization through the Committee for the Acceleration of Priority Infrastructure Provision (KPPIP), which reduces regional authority and gives the central government substantial discretion to determine the PSN list in ways that may serve crony business interests. The investigative report of the Lokataru Foundation (2025) concerning the Patimban Port PSN in Subang Regency, West Java, for example, found that KPPIP was chaired by the Coordinating Minister for Economic Affairs, Airlangga Hartarto, while the Vice Chair was the Coordinating Minister for Infrastructure and Regional Development, Agus Harimurti Yudhoyono. Meanwhile, KPPIP’s membership includes the Minister of Finance, the Minister of National Development Planning/Head of Bappenas, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN), and the Minister of Environment and Forestry.

Analysis of Capture Typology and Its Implications for Governance and Conflict

The political evolution of strategic development law described above creates a multilayered mechanism of state control, as explained below:

a. Personnel and Institutional Capture: The placement of actors with potential conflicts of interest (businesspeople and public officials) within the Omnibus Law Task Force and KPPIP may ensure that rules are formulated in ways that benefit associated business interests. These include provisions such as the elimination of certain criminal sanctions concerning the seizure of customary land under the Job Creation Law and the expansion of the meaning of land acquisition for development framed as being in the “public interest.” In addition, the elimination of the 0% royalty incentive reinforces this condition.

b. Regulatory Capture: The use of instruments such as the “holding-zone system” under Presidential Regulation No. 3 of 2016 *jo.* Presidential Regulation No. 109 of 2020 allows projects

to proceed in forest areas even when the relevant permits have not yet been completed, thereby potentially triggering conflicts in PSN locations such as Merauke because it disregards the right to life and other human rights of the Malind Indigenous Peoples.

c. Budget Capture: The disbursement of the state budget through the State Asset Management Agency (LMAN), more than Rp600 billion for land acquisition in the Patimban Port PSN case, and State Capital Participation (PMN) demonstrates how business risks and land-acquisition costs may be borne by the public through the state budget. This condition exemplifies the concept of “socialized losses,” while long-term profits are enjoyed by consortia formed by business and political elites.

The Causal Relationship Between Regulation and Conflict in the Field

Procedural manipulation in the politics of law and lawmaking is a root cause of the surge in agrarian conflicts (by 123% in 2021), because regulations deliberately eliminate meaningful public participation. Furthermore, throughout 2021, agrarian conflicts caused by infrastructure development occupied the second position after the plantation sector, with 52 conflicts. This number represented a significant increase of 73% compared with 2020. Of the 52 agrarian conflicts, 38 cases reportedly originated from National Strategic Projects (Imron, 2015).

Furthermore, the pattern of agrarian conflict and the deprivation of residents’ living spaces associated with strategic development can be illustrated through the following cases. First, Wadas, Central Java. The conflict erupted because a policy based on the discretion of officials (*freies Ermessen*) permitted mining without an IUP, representing a form of “ignored legal compliance” in favor of the physical acceleration of the project. Second, Patimban Port, West Java. The reclassification of the project as a PSN midway through the process, without adequate transparency and participation of Patimban residents, resulted in approximately 800 fishermen losing access to their living and fishing spaces, demonstrating how law can function as a tool for “consolidating economic and political power.”

Referring to the KPA report (2023), throughout 2023 there were 241 incidents of agrarian conflict across 33 provinces. When further disaggregated by sector, the following figures were recorded: agribusiness plantations, 108 cases; property businesses, 44 cases; mining, 32 cases; infrastructure projects, 30 cases; forestry, 17 cases; and coastal and small-island areas, 5 cases.

Table 2

Province with the Highest Agrarian Conflict in 2023

No.	Province	Number of Conflicts	Area (Ha)	Victim (KK)	Village
1.	North Sumatra	33	34.090	11.148	25
2.	South Sulawesi	19	75.785	17.889	53
3.	Riau	16	60.955	6.992	20
4.	Jambi	15	22.433	6.061	20
5.	Bengkulu	12	9.241	4.186	23
6.	East Kalimantan	12	251.259	3.885	11
7.	East Java	11	14.731	2.950	12
8.	West Java	10	475	2.464	10
9.	Riau Islands	10	16.674	9.750	10
10.	NTT	10	2.209	2.623	16

Source: Agrarian Reform Consortium Data, 2023.

Reading these patterns, facts, and data, it is reasonable to conclude that an oligarchic cartel can influence the Indonesian legal system in ways that produce a form of “autocratic legalism,” in which elite preferences are translated into formally legitimate legal rules while lacking moral and sociological legitimacy. This further emphasizes the shift toward an “investative state,” suggesting that the state is no longer a neutral referee but an integral component of the oligarchic structure itself.

Discussion

Institutional and Budget Capture: Centralization of Power and the Deployment of State Instruments

In the study of governance and political economy, PSNs are managed through a highly centralized structure. The determination of project and program lists is strongly influenced by the Committee for the Acceleration of Priority Infrastructure Provision (KPPIP), an institution operating at the central-government level. This institutional design is vulnerable to “institutional capture,” whereby the authority of local governments is reduced through regulations such as PP No. 22 of 2021 and Presidential Regulation No. 109 of 2020, leaving local governments to function largely as complementary actors without adequate supervisory authority (Septian, 2023).

From a political-economy perspective, such institutional design is prone to the practice of “budget capture,” particularly through massive allocations from the state budget. LMAN, for example, has disbursed more than Rp600 billion for land acquisition for the Patimban Port PSN, while the state-owned enterprises (SOEs) involved often experience financial difficulties and seek State Capital Participation (PMN). Ironically, amid this deployment of public funds, the economic benefits are not distributed evenly but are concentrated within networks of businesspeople affiliated with circles of political power.

Multidimensional Impact Evaluation: An Analysis of Environmental Justice and Human Rights

Through the Strategic Environmental and Social Assessment (SESA) approach, this study reveals substantial disparities in environmental and social risks across PSN locations. Based on the Environmental, Social, and Quality Objectives (ESQO) parameters, assessment scores were obtained for each case and used to evaluate the severity of state capture and agrarian vulnerability. The results provide an empirical basis for examining how regulatory-capture mechanisms operate within PSN environmental assessments, how oligarchic-state linkages may influence the justification of projects subject to insufficient environmental due diligence, and how SESA indicators can be used to assess the severity of state capture. The findings also provide a basis for identifying remedial governance structures to prevent and mitigate regulatory capture within PSN processes.

a. PSN Batang Integrated Industrial Estate (KIT) (+4): Categorized as a “strategic strengthening opportunity” because it is built on state land (formerly managed by PTPN), thereby minimizing conflicts in the field.

b. Konawe Downstream PSN (+3): The downstream PSN in Konawe represents an extractive-intensive downstream model characterized by high economic growth but also high socioecological risks. The nickel industrialization model, involving mines, smelters, and coal-fired power plants, encourages increases in GDP and job creation on the one hand, but on the other hand, the distribution of benefits has not been sufficiently equitable or fair.

c. PSN Food Estate Merauke (-8): Included in the priority category for urgent intervention. This food-estate project allegedly violates the principles of Free, Prior, and Informed Consent (FPIC) in relation to the Yei and Marind Indigenous Peoples and triggers high carbon emissions through peatland clearing in the FOLU sector.

d. PSN Patimban Port (negative): The case illustrates the phenomenon of “socialized losses,” in which the construction of a 301-hectare port through reclamation caused approximately 800 traditional fishermen to lose access to their fishing grounds and eroded local knowledge and customary practices.

e. Wadas Mining Case (negative): Included in the category of alleged violations of development and environmental law, in which andesite mining was pursued without a valid Mining Business License (IUP). This condition may threaten the environmental security of residents and their sources of livelihood.

Strategic and Global Risks: PSNs in the Geopolitical Vortex and Global Supply Chains

The legal politics of strategic development in Indonesia cannot be understood solely as domestic policy but must also be viewed as part of global geostrategic and geoeconomic contestation (Putri, 2024). Indonesia’s transformation from a raw-material exporter into an industrialized economy through downstream processing represents an effort to position itself within global supply chains, particularly in the green-energy and electric-vehicle sectors (Mindan

[Cahyani & Rahman, 2021](#)). To further examine this issue, the following analysis is presented:

The Occupation of Legal Politics by Global Interests and Multinational Corporations

Theoretically, downstream policies, such as those concerning nickel and other critical minerals, reflect the phenomenon described by Polanyi (1944), in which “the path to the free market is opened and defended through increased organized and centralized state intervention”. In the Indonesian context, international corporations and global markets play a significant role in shaping the political direction of national law through mechanisms of “regulatory capture.”

Regulations such as the Job Creation Law and amendments to the Mineral and Coal Mining Law have become “red carpets” designed to attract foreign investment by relaxing environmental standards and reducing bureaucratic barriers at the regional level. Moreover, the determination of the PSN list through top-down processes is often aligned with the interests of global strategic partners, including Chinese investment in the nickel industry, which controls more than 90% of Indonesia’s smelter capacity. Within the framework of the state-capture chain, domestic elite actors (oligarchs/cartels) act as intermediaries connecting state authorities with global capital for the purpose of mutual accumulation, often at the expense of the constitutional rights of local citizens ([Robison & Hadiz, 2004](#)).

The Dilemma of “Green Products” and International Sustainability Standards

There is a sharp contradiction between Indonesia’s ambition to enter international green markets and extractive practices on the ground. Although downstream products such as nickel are intended for electric-vehicle batteries and are therefore associated with the green industry, the production process often relies on “dirty” energy: smelters in Konawe and Morowali remain heavily dependent on coal-fired power plants, which generate high levels of pollutant emissions. At the same time, constitutional rights may be violated through disregard for the principle of Free, Prior, and Informed Consent (FPIC) and the destruction of customary territories in Merauke, creating substantial reputational risks in the international community.

Furthermore, from a strategic and global perspective, Indonesia’s failure to uphold human rights standards and environmental sustainability in National Strategic Projects creates long-term economic risks. National downstream products, such as Merauke bioethanol or Konawe nickel, face a substantial risk of rejection by international green markets that apply strict Environmental, Social, and Governance (ESG) standards. If carbon emissions and human rights violations are not adequately controlled, PSNs that were originally intended to drive economic transformation may instead become obstacles to national competitiveness in the global arena.

Analysis of Winners and Losers

Based on the analysis of several concrete cases examined in this study, the distribution of systemic benefits and losses across several National Strategic Projects can be mapped as follows:

a. The Winners

Consortia of Elites and Oligarchs: These include business figures affiliated with political power, such as those involved in the PPI consortium in Patimban or in the ownership of nickel and coal mines in Konawe. This group of oligarchs may enjoy the long-term benefits of “state-protected” licenses and contracts ([Robison & Hadiz, 2004](#)).

Multinational/Foreign Corporations: Particularly investors from China and Japan, which obtain greater certainty of raw-material supplies through financing arrangements and regulatory concessions.

The Government of Indonesia through Foreign-Exchange Earnings: There has been an increase in the export value of processed nickel from USD 6 billion to USD 30 billion ([Robison & Hadiz, 2004](#)).

b. The Losers

Local and Indigenous Peoples: The Marind people in Merauke, who have experienced threats to food sovereignty, and fishermen in Patimban and Rempang, who have lost fishing areas because of infrastructure expansion.

The Environment and Public Health: Approximately 5,000 residents of Konawe reportedly suffered from acute respiratory infections (ISPA), alongside extensive deforestation in land-based

project areas.

The Public and Future Generations: The public bears the burden of foreign debt, such as the JICA loan of Rp8.57 trillion for Patimban, over a period of forty years amid the phenomenon of “socialized losses.”

Strategic Projections: The Dilemma of the Welfare State and the Threat of a Structural Justice Crisis

Reliance on a single global power, such as China’s dominance in the nickel sector, creates economic and political vulnerabilities that may be used as instruments of pressure in international diplomacy. The National Strategic Project (PSN), if it continues to be managed through mechanisms of “state capture,” is no longer an instrument of public welfare as mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia, but rather a tool for consolidating exclusive and closed economic and political power beyond effective democratic control.

Therefore, the institutionalization of a Strategic Environmental and Social Management Plan (SESMP) is not merely a technical necessity but an essential requirement to ensure that future national development is not rejected by the global community and does not leave a legacy of poverty and debt for the Indonesian people.

Eight-Stage Analysis Model for Breaking the Chain of State Domination

The main novelty of this research lies in the formulation of an eight-stage analysis model designed as an instrument for evaluating strategic development policies and dissecting and breaking the State Capture Chain. Thus, this study differs from conventional legal studies that tend to be sectoral or juridical-normative. The model offers an interdisciplinary approach that integrates the dimensions of legal politics, political economy, business and human rights, human rights and good governance, natural-resource (SDA) governance, development law, and global strategy. Operationally, the model can be implemented through the following stages:

Stages 1 and 2: Identification of Elite Actors and Policy-Production Facts (Ideas and Policy Capture)

At these stages, the research dissects the power relations of elite and oligarchic actors behind a policy initiative. The focus of the analysis lies in examining how elite actors (corporations or individuals, including political elites) are able to establish the “basic rules of the game” through collusion with public officials to direct state policies toward private accumulation ([Hellman et al., 2000](#)). A clear example can be seen in the formation of the Job Creation Law, which used the omnibus-law approach as a “shortcut” to legislation that bypassed standard procedures in the interest of accelerating investment.

Stage 3: Budget Capture

This stage evaluates the use of state fiscal facilities and instruments, such as the State Budget, State Asset Management Agency (LMAN) funds, and State Capital Participation (PMN) through State-Owned Enterprises (SOEs), to support strategic projects that are de facto controlled by elite business consortia (oligarchs/oligarchic cartels). The massive deployment of public funds, such as Rp661 billion from LMAN for the acquisition of land for the Patimban project, confirms the phenomenon in which business risks are borne by the public (“socialized losses”), while profits are privately managed.

Stage 4: Evaluation of Violations of Legal Norms and Principles (Regulatory Capture)

This stage analyzes legal norms and principles that are systematically violated or weakened in development regulations, particularly through the neglect of the Meaningful Participation standard. Regulatory capture in the context of strategic development is manifested through the reduction of the meaning of “public interest” in the Job Creation Law, which has been expanded to include commercial sectors such as mining, special economic zones/priority industrial areas, and tourism, thereby facilitating the legal acquisition of land for commercial purposes ([Mindan Cahyani & Rahman, 2021](#)).

Stage 5: Detection of Political Paradigm Shifts in Development Law

This stage assesses the extent to which the state has shifted from its function as a protector of human rights, as an integral component of the welfare-state mandate (welfare state), toward an “investative state.” In this paradigm, state instruments, including law, bureaucracy, and security forces, are subordinated to the pursuit of GDP (Gross Domestic Product) growth, often at the expense of the constitutional rights of citizens, particularly vulnerable groups living around strategic project sites.

Stage 6: Multidimensional Risk Mapping with SESA-ESQO Methodology

The methodological novelty at this stage is the application of Strategic Environmental and Social Assessment (SESA) scoring using Environmental, Social, and Quality Objectives (ESQO) parameters. This model can quantify risks systematically, for example by identifying a disparity between the relatively stable PSN Batang (score +4) and the Merauke PSN (score -8), which falls within the crisis-risk category because of the neglect of FPIC principles and high carbon emissions ([Samodro, 2026](#)). The study focuses on four specific analytical issues: the operation of regulatory-capture mechanisms within PSN environmental assessments; the role of oligarchic-state linkages in legitimizing projects with insufficient environmental due diligence; the extent to which SESA indicators can predict the severity of state capture; and the governance structures required to prevent and mitigate regulatory capture.

Stage 7: Formulation of Restorative-Justice-Based Resolutions

This approach was selected as an antithesis to repressive approaches. This stage offers a model of “Restorative Justice” for resolving agrarian conflicts. The focus is on restoring victims’ rights, ensuring the meaningful involvement of Indigenous Peoples, and utilizing local knowledge and customary practices as social capital in conflict resolution ([Caesarina et al., 2021](#)).

Stage 8: Global Strategic Projections and Supply-Chain Mitigation

At this stage, the model connects domestic policy with global geopolitical and socioeconomic dynamics. This means that the legal politics of strategic development are inseparable from their global dimensions ([Robison & Hadiz, 2004](#)). The model warns that failure to manage national, regional, and international human rights standards, as well as carbon emissions in the FOLU sector, risks causing Indonesia’s downstream products to be rejected by international green markets that uphold ESG standards.

Through this eight-stage model, the research goes beyond descriptive criticism by providing an evaluative framework for public administration to identify potential gaps and mechanisms of policy capture. The application of this model seeks to ensure that development policies remain aligned with the mandate of Article 33, paragraph (3), of the 1945 Constitution of the Republic of Indonesia, which emphasizes the greatest possible prosperity of the people, rather than reinforcing oligarchic power structures. The model identifies eight stages of potential policy capture: (1) PSN regulatory framing, (2) Environmental Impact Assessment (EIA) process capture, (3) stakeholder-participation manipulation, (4) environmental adequacy waivers, (5) underestimation of agrarian impacts, (6) absence of remedial action, (7) conflict escalation, and (8) consolidation of institutional capture.

CONCLUSION

This study concludes that the implementation of National Strategic Projects (PSNs) in Indonesia demonstrates the existence of a State Capture Chain mechanism that shifts the politics of development law from the paradigm of the welfare state toward an “investative state,” as reflected in the formation of regulations that disregard constitutional principles, including in the context of Constitutional Court Decision No. 91/PUU-XVIII/2020. This condition gives rise to inequality in the distribution of development benefits and risks, whereby state instruments appear more dominant in protecting investment interests than in protecting the constitutional rights of communities, as illustrated by the cases of the Patimban Port PSN and the Merauke Food Estate/Bioethanol project, which have generated social, ecological, and cultural burdens for local communities. In addition, the weak implementation of Meaningful Participation demonstrates

that public participation has not yet become a substantive component of PSN governance, potentially reducing the legitimacy of development while hindering the competitiveness of Indonesia's downstream products in a global market that increasingly emphasizes environmental standards and human rights. Therefore, PSN governance reform needs to be directed toward strengthening human rights protection, implementing the principle of Free, Prior, and Informed Consent (FPIC), and integrating ESQO parameters into every stage of the policy-making process. Further research should develop normative legal studies on strengthening PSN regulations and monitoring mechanisms, as well as empirical research evaluating the effectiveness of public participation, protection of the rights of affected communities, and implementation of sustainability principles across various National Strategic Projects in Indonesia.

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AUTHOR CONTRIBUTION STATEMENT

Hasnu was responsible for the conceptualization of the study, research methodology, collection and analysis of legal materials, interpretation of the findings, and preparation of the manuscript. The author approved the final version of the manuscript and is accountable for its content.

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