



Christian Lund, Nine-Tenths of the Law: Enduring Dispossession in Indonesia, 2020, Yale University Press

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Christian Lund, *Nine-Tenths of the Law: Enduring Dispossession in Indonesia, 2020*, Yale University Press

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Christian Lund's latest book deals with the ongoing question of how people claim and retain rights over the land they consider theirs. Taking as a point of departure the aphorism that 'possession is nine-tenths of the law', Lund recognises that physical presence and force are fundamental ways of accessing and retaining a piece of land, both in Indonesia—where the book's research was undertaken—and many other places around the world. However, Lund argues, focusing on the harsh materiality of possession should not lead us to dismiss the importance that ordinary people, agribusiness companies, urban promoters and government officials attach to legality. It is not that people have chosen to abide by the force of the letter of the law or deed; their allegiance is eminently strategic and tactical, particularly in places such as Indonesia, characterised by enduring dispossession and persistently fragile property rights. People strive to legalise their claims because the law promises predictability. Legal recognition is—in theory, at least—a promise that the state will protect and enforce property rights. The permanent struggle for possession does not, therefore, mean that legalisation is less important. On the contrary, since possession is fragile, legalisation is a way of making 'claims stick' (p. 5).

However, legalisation is not absolute and definitive. Although it involves the letter of the law, it cannot be reduced to formal legal deeds nor is it always supported by clear-cut legality. For Lund, the term legalisation encompasses 'processes whereby particular rules, claims, or administrative operations are legitimated through reference to the law, regardless of whether a genuine correspondence between them and statutory law actually exists' (p. 6). The point of legalisation is rarely to achieve full legality—something that is often beyond people's means—but more often to 'bestow upon a rule or claim an *air of legality*' (p. 6, emphasis in the original). Legalisation is, then, about the multiple efforts deployed by people to persuade others that their possession is legal. Persuasion as much as proof is the common purpose of legalisation (p. 176).

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While Lund's analytical framework will be useful for scholars working in very different contexts, its core interrogations are even more compelling in the light of various important traits of the Indonesian context. In both urban and rural settlements, claims to property in Indonesia are 'no more settled facts than facts to settle' (p. 176). The combination of a colonial and post-colonial legal doctrine with the plantation economy has made claims to land rights shaky, contentious and constantly open to negotiation. As the state has consistently considered all rights as weak and temporary, this has paved the way for endless competition to amass legal evidence and frame rights in ways that are receivable by various public authorities. The country's agrarian history has made things even more complex as rivalries for farmland are endlessly fomented by constant competition between agribusiness interests, greedy state officials and peasant collectives. Urban conflicts are no less messy. As cities grow, former agricultural concessions are coveted by residential and commercial developers but also by an array of rural migrants and other impoverished city dwellers. The convergence of legal uncertainty and permanent competition for land has given the legal field a critical position for people attempting to retain, gain or challenge land rights. While Lund carefully analyses the structural inequalities that people face when entering this field, he also underlines their determination and ingenuity when wrestling for recognition.

Over the book's six empirical chapters, which are preceded by a very thorough introduction and followed by a strong conclusion, legalisation appears in various forms: people might use tax payment receipts, voter registration for local assemblies or efforts to obtain an official address and evidence of public service delivery (schools, health centres) as ways of gaining recognition of the legality of their claims. Two important aspects of these struggles for recognition are highlighted by Lund: they are most often indirect, and they make use of multiple authorities that might—or might not—be formally entitled to grant such recognition.

Pointing out that asserting land rights often occurs through indirect means is one of the book's key contributions. In line with some of his previous studies, Lund makes the connection between the recognition of property and citizenship. Particularly in situations when direct recognition is beyond people's capacities, indirect recognition is a safer strategy to claim rights over land. Chapter 3 provides an illustration of this through the case of settlements within the Mount Halimun-Salak National Park in Java. As people's claims are overruled by the protected status of the area, local residents have used a combination of strategies to gain partial and indirect recognition of their right to keep their lands. Paying taxes, successfully demanding the construction of schools and roads, claiming the status of 'indigenous' people or simply being registered in a census all constitute 'fragments' of recognition that, added together, support a partial level of legalisation.

Intrinsically linked to this indirect strategy of recognition is the fact that people are not mobilised around a monolithic state but instead call for the recognition of multiple forms of public authority. Bureaucracies in charge of building schools or roads do not formally hold the authority to recognise people's rights over land, particularly when other state agencies consider the same piece of land as part of an industrial plantation or national park. Nevertheless, recognition of one's right to be there by a census official or a district school board, or being registered as a voter

for local assemblies can become partial proof of the righteousness of their claim. Similarly, people resort to religious authorities to have mosques built in their villages or neighbourhoods as a way of proving their civic virtue—and discouraging anyone intending to raze their settlement. Contrary to the ideal of rights issued by a well-ordered legal structure of hierarchical authorities, Lund shows that claims to property and citizenship are interconnected in a web-like manner, like a ‘patchwork of hints of legalization’ (p. 148–9). They are mutually constitutive, piece by piece.

These struggles for recognition unfold against the backdrop of brutal inequality because institutions are shaped by the strength of the plantation economy and the collusive relationships among corporate elites, armed gangs and state officials. This observation is a common thread through most of the case studies presented in the empirical chapters. While Indonesia’s political history has featured violent ruptures and radically changing regimes, the plantation economy has persisted and retained formidable economic and political influence. Lund analyses this persistence through the lens of state elites’ power strategies. Even when they promise a radical break with the past, ‘new dominant groups soon acquired stakes in the continuation of the structures against which they once fought’ (p. 48). Through a history of anti-colonial struggle, nationalist developmentalism, anti-communist authoritarianism and *reformasi* democratisation, the concentration of land in corporate hands has always represented a far more favourable prospect for governments and state elites than fulfilling promises of land redistribution. While supported by a ‘*longue durée*’ view of Indonesia’s political economy, this observation is also valid for shorter time frames. In Aceh, where violent conflict raged between 1976 and 2005, ‘the violence of war was followed only by the violence of peace’ (p. 103); as the Free Aceh Movement (GAM) signed a peace deal with the government, the movement’s leaders quickly abandoned their pro-peasant propaganda. The prospects of profitable relationships with palm oil companies and businessmen prompted them to promote the plantation economy, undermining peasants’ claims and reproducing the ancient property patterns they had once fought.

Urban settlements are no less characterised by continuous threats and permanent duress. As cities expand, adjacent plantations become the targets of construction developers, and a combination of legal and illegal tactics are generally used to grab land. Residents, having settled within the concessions’ perimeters, struggle to resist the push for land grabbing but are often defenceless against the pressure of powerful interests. Using the case of the city of Medan (Chapter 7), Lund studies a pattern of dispossession where urban developers use the existence of previous settlements within the plantation perimeter to apply for private land rights when concessions expire. Once these local residents have served their purpose of proving a form of land possession, the same developers hire armed gangs to force people to surrender their land. Here, brute force and bureaucratic legalisation combine to sustain a highly unequal and violent social order. Corruption and armed intimidation are not opposed to legal paperwork and concern for legality—on the contrary, ‘disruptive, erratic, and violently unfair use of law [are] part and parcel of legalization of property’ (p. 174).

Lund’s book combines an attentive review of the multiple strategies used by people to gain recognition for their claims for property with a fine-grained understanding of

the underlying political economy of agrarian and urban conflicts for land. He shows that the study of plural and multiple authorities and legal orders can and should fully integrate an attentive view of the structures of inequality and the relations of domination that determine people's ability to express their claims for land rights. The book's innovative and thorough analysis of land claims legalisation makes it indispensable reading for students of land conflicts.

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