

Disparities in Land Economic Value in Public Acquisition: Contextual Islamic Legal Reconstruction of Regulatory Gaps and the Threat of Land Mafia

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|| Received: 02-10-2025

| Revised: 12-01-2025

| Accepted: 01-02-2026

|| Published On: 22-02-2026

Abstract: This study examines disparities in land economic value in public land acquisition in Indonesia, focusing on distortions generated by land mafia practices. Employing a normative juridical approach with statutory, conceptual, and comparative analyses, this research integrates land value theory, justice theory (John Rawls), legal philosophy (Gustav Radbruch), and *maqāṣid al-sharī'ah* as developed by Jasser Auda. The findings reveal that land value inequality is not merely a market-driven phenomenon but is structurally produced by regulatory loopholes, weak law enforcement, and institutional vulnerability, which collectively enable land mafia networks to manipulate land valuation, ownership documentation, and compensation mechanisms. These conditions result in unfair redistribution of economic benefits, marginalization of lawful landholders, and delays in public development projects. This study argues that existing positive law frameworks, particularly Law No. 2 of 2012 on Land Acquisition for Public Interest, emphasize formal legality but insufficiently address substantive justice and property protection. To address this gap, the research proposes a contextual reconstruction of Islamic law grounded in *hifz al-māl* (protection of property), *'adl* (justice), and *maṣlahah* (public interest). This reconstruction operationalizes *maqāṣid al-sharī'ah* into concrete regulatory strategies, including transparent valuation standards, participatory compensation models, integrated digital land administration, institutional accountability, and community legal empowerment. The novelty of this study lies in transforming *maqāṣid al-sharī'ah* from a normative ethical framework into an operational legal instrument for land governance reform. By integrating Islamic legal principles with positive law, this research offers a conceptual model for addressing land value inequality and strengthening protection against land mafia practices, contributing to the development of a more just, transparent, and socially sustainable land acquisition system.

Keywords: Land Mafia; Land Economic Value; Maqāṣid al-Sharī'ah; Public Land Acquisition; Legal Reconstruction

Abstrak: Penelitian ini mengkaji ketimpangan nilai ekonomi tanah dalam pengadaan tanah untuk kepentingan umum di Indonesia dengan menyoroti distorsi yang ditimbulkan oleh praktik mafia tanah. Penelitian menggunakan pendekatan yuridis normatif melalui analisis peraturan perundang-undangan, pendekatan konseptual, dan perbandingan hukum, dengan mengintegrasikan teori nilai ekonomi tanah, teori keadilan John Rawls, filsafat hukum Gustav Radbruch, serta *maqāṣid al-sharī'ah* sebagaimana dikembangkan oleh Jasser Auda. Hasil penelitian menunjukkan bahwa ketimpangan nilai tanah bukan semata-mata akibat mekanisme pasar, melainkan merupakan produk struktural dari celah regulasi, lemahnya penegakan hukum, dan kerentanan kelembagaan yang memungkinkan jaringan mafia tanah memanipulasi penilaian tanah, dokumen kepemilikan, serta mekanisme kompensasi. Kondisi tersebut menyebabkan redistribusi manfaat ekonomi yang tidak adil, marginalisasi pemilik tanah yang sah, serta keterlambatan proyek pembangunan untuk kepentingan umum. Penelitian ini menegaskan bahwa kerangka hukum positif, khususnya Undang-Undang Nomor 2 Tahun 2012 tentang Pengadaan Tanah untuk Kepentingan Umum, masih menitikberatkan pada legalitas formal dan belum sepenuhnya menjamin keadilan substantif serta perlindungan hak milik. Untuk menutup kesenjangan tersebut, penelitian ini menawarkan rekonstruksi hukum Islam kontekstual berbasis *hifz al-māl* (perlindungan harta), *'adl* (keadilan), dan *maṣlahah* (kemaslahatan publik), yang dioperasionalkan ke dalam strategi konkret berupa standar appraisal yang transparan, model kompensasi partisipatif, digitalisasi administrasi pertanahan terintegrasi, penguatan akuntabilitas kelembagaan, serta pemberdayaan hukum masyarakat. Kebaruan penelitian ini terletak pada transformasi *maqāṣid al-sharī'ah* dari kerangka etik normatif menjadi instrumen hukum operasional dalam reformasi tata kelola pertanahan. Dengan mengintegrasikan prinsip hukum Islam dan hukum positif, penelitian ini menawarkan model konseptual untuk mengatasi ketimpangan nilai tanah sekaligus memperkuat perlindungan terhadap praktik mafia tanah, sehingga berkontribusi pada pembentukan sistem pengadaan tanah yang lebih adil, transparan, dan berkelanjutan secara sosial.

Kata Kunci: Mafia Tanah; Nilai Ekonomi Tanah; Maqāṣid al-Sharī'ah; Pengadaan Tanah; Rekonstruksi Hukum

How to cite this article:

Agus Triono and Others, Disparities in Land Economic Value in Public Acquisition: Contextual Islamic Legal Reconstruction of Regulatory Gaps and the Threat of Land Mafia, *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan*, 13.1 (2026), 26-41
Doi: <http://dx.doi.org/10.29300/mzn.v13i1.9147>



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Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan

Published by Faculty of Sharia, State Islamic University of Fatmawati Sukarno Bengkulu

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Introduction

Land constitutes a high-value economic asset and serves as a vital instrument in national development. However, in practice, land has also become a source of prolonged conflict, particularly when land mafia practices undermine the legal order and weaken land economic value. Studies indicate that land mafia operations in Indonesia have become increasingly sophisticated, involving document forgery, fictitious transactions, and collusion with state officials, ultimately causing losses to the state, harming communities, and obstructing investment¹. Key factors driving the proliferation of land mafia include the high economic value of land, weak law enforcement, and regulatory inconsistencies.² Consequently, land mafia activities not only generate ownership disputes but also produce serious distortions in land economic value, which should otherwise function as a mechanism for protecting lawful landholders' rights.

Normatively, Indonesia has established a legal framework for land acquisition for public purposes through Law No. 2 of 2012 and its implementing regulations. This regulatory regime is designed to ensure legal certainty, transparency, and fair compensation for

landowners³. The principles promoted—such as humanity, justice, and openness—indicate that the state formally rejects land mafia practices.⁴ However, numerous studies reveal persistent legal loopholes that are actively exploited by land mafia networks. For instance, ambiguity in operational definitions and weak dispute resolution mechanisms have created opportunities for land mafia practices that harm communities.⁵ Furthermore, appraisal procedures in determining compensation values are often inconsistent, resulting in unequal bargaining positions between the government and affected landowners.⁶

From a theoretical perspective, Islamic law views land not merely as an individual asset but also as a social trust with a public welfare function. The principle of *maqāsid al-sharī'ah* emphasizes the protection of property (*ḥifẓ al-māl*) and justice (*'adl*), indicating that land mafia practices fundamentally contradict principles of justice and undermine social benefit.⁷ Furthermore, problems in public land acquisition and land mafia practices can be explained through land economic value theory and legal justice theory. Land economic value theory asserts that land value is determined by location, productivity, and socio-economic potential; therefore, value disparities caused

¹ Dhea Pristiwanti and Diah Ratna Sari Hariyanto, "Kekerasan Seksual Di Lingkungan Pendidikan Ditinjau Dari Undang-Undang Tindak Pidana Kekerasan Seksual Dan Ham," *Jurnal Kertha Negara*, 2023.

² Dahlena, "Menutup Celah Hukum Praktik Mafia Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum," *Indragiri Law Review* 2, no. 1 (2024): 25–32, <https://doi.org/10.32520/ilr.v2i1.21>.

³ Sulastri Yasim et al., "Land Acquisition for Public Interest Development: Legal and Regulatory Perspectives in Indonesia," *Journal of Scientific Research, Education, and Technology (JSRET)* 4, no. 1 (2025): 434–45, <https://doi.org/10.58526/jsret.v4i1.711>.

⁴ Sulastri Yasim et al., "Land Acquisition for Public Interest Development: Legal and Regulatory Perspectives in Indonesia."

⁵ Noor Rohmat et al., "Reconstruction of Land Procurement Policies and Land Losses Compensation in the Name of Public Interests Based on Justice Value," *Scholars International Journal of Law, Crime and Justice* 4, no. 2 (2021): 47–53, <https://doi.org/10.36348/sijlcj.2021.v04i02.004>.

⁶ Sufiarina Sufiarina et al., "Determination versus Deliberation of Indemnity Value Land Procurement for the Public Interest," *Proceedings of the 1st International Conference on Education, Humanities, Health and Agriculture, ICEHHA 2021*, (Ruteng, Flores, Indonesia), 2021, <https://doi.org/10.4108/eai.3-6-2021.2310832>.

⁷ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008).

by land mafia manipulation generate serious distortions in market mechanisms and harm lawful landholders.⁸ Meanwhile, legal justice theory, as articulated by John Rawls through the principle of *justice as fairness*⁹ and by Gustav Radbruch through the three fundamental values of law—legal certainty, justice, and utility—emphasizes that law must go beyond formal certainty to ensure substantive justice, including fair compensation and protection of landowners from abuse of authority.¹⁰

While existing studies have explored land acquisition from perspectives such as weak legal protection¹¹, appraisal and compensation mechanism¹², and justice-oriented regulatory reform¹³, they largely treat land mafia as an administrative or criminal issue, without systematically examining its structural impact on land economic value. Moreover, prior research remains predominantly grounded in positive law and has not advanced an operational framework derived from Islamic legal principles. Addressing this gap, the present study offers an integrated analytical model that connects land mafia practices, economic value distortion, and regulatory vulnerability within a unified conceptual framework. Its novelty lies in transforming *maqāṣid al-sharī'ah* from a normative ethical reference into an operational legal paradigm for land governance reform, thereby providing a contextual Islamic legal reconstruction that

complements positive law. By positioning land value inequality as a socio-legal consequence of regulatory failure rather than merely a market anomaly, this study contributes a new perspective to land acquisition scholarship and advances a justice-oriented, *maqāṣid*-based approach to combating land mafia practices.

Based on this framework, the research questions focus on three main issues: (1) how land mafia practices affect disparities in land economic value within the context of public land acquisition; (2) to what extent existing regulations provide legal protection and economic justice in land valuation; and (3) how Islamic law can be proposed as a foundation for a more contextual regulatory reconstruction to close opportunities for land mafia practices. Accordingly, this study aims to identify forms of land economic value inequality in public land acquisition, examine regulatory loopholes exploited by land mafia networks, and formulate a legal reconstruction grounded in principles of justice and public welfare from the perspective of Islamic law.

Accordingly, this study offers two principal contributions. Academically, it advances land acquisition scholarship by foregrounding land economic value inequality as a critical consequence of land mafia practices—an analytical dimension that has received limited attention in prior research. Practically, it proposes a contextual Islamic law-based regulatory reconstruction grounded in

⁸ Erwin Kallo, *Perspektif Hukum Dalam Dunia Properti: Sebuah Upaya Pengembangan, Pemajuan, Serta Pencerahan Hukum Dalam Dunia Properti Di Indonesia* (Minerva Athena Pressindo, 208 AD).

⁹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1973) dalam Sulthoni Ajie Angga Christian, Ainun Nabilah, “Teori Keadilan Jhon Rawls,” *Jurnal Konstitusi* 2, no. 1 (2025): 598–611.

¹⁰ Sudikno Mertokusumo, “Mengenal Hukum Suatu Pengantar, Cet,” in *Ke-4, (Liberty, Yogyakarta, 2008)* (2019).

¹¹ Sulastrı Yasim et al., “Land Acquisition for Public Interest Development: Legal and Regulatory Perspectives in Indonesia.”

¹² Sufiarina et al., “Determination versus Deliberation of Indemnity Value Land Procurement for the Public Interest.”

¹³ Rohmat et al., “Reconstruction of Land Procurement Policies and Land Losses Compensation in the Name of Public Interests Based on Justice Value.”

principles of justice and public welfare, aimed at strengthening landholder protection and closing systemic loopholes exploited by land mafia networks. Consequently, this research is not only academically relevant but also strategically significant in supporting more equitable and socially sustainable land governance reform in Indonesia.

Method

This study employs a normative juridical approach, as the analysis focuses on statutory frameworks governing land acquisition for public purposes, particularly legal loopholes exploited by land mafia networks and their implications for land economic value inequality. The normative approach is adopted because legal research fundamentally relies on systematic examination of primary, secondary, and tertiary legal materials.¹⁴

Within this normative framework, several analytical approaches are applied. First, a statute approach is used to examine Law No. 5 of 1960 on Basic Agrarian Principles, Law No. 2 of 2012 on Land Acquisition for Public Interest, and Government Regulation No. 39 of 2023. Second, a conceptual approach is employed to elaborate the concepts of land economic value and justice from the perspective of Islamic law. Third, a comparative approach is utilized to identify regulatory differences between positive law and Islamic legal principles in providing protection for land rights.

Data analysis is conducted using a qualitative-descriptive method through systematic examination of legal norms, identification of regulatory weaknesses, and

contextualization with secondary empirical data—such as reported land conflicts and documented land mafia cases¹⁵. These findings are subsequently integrated with Islamic legal justice principles to formulate a regulatory reconstruction model. This methodological design enables the study to move beyond doctrinal analysis by situating legal norms within their social realities, thereby generating conceptual findings with practical relevance for narrowing systemic opportunities for land mafia practices.

Result and Discussion

Land Economic Value Inequality as a Consequence of Land Mafia Practices

Based on the 2023 annual agrarian report published by the Agrarian Reform Consortium, Indonesia experienced a significant increase in land conflicts between 2015 and 2023, totaling 2,939 cases involving more than 6.3 million hectares of land and affecting approximately 1.7 million households. The largest conflicts occurred in the plantation sector (1,131 cases covering 2.7 million hectares and affecting 404,000 households), followed by property (609 cases), infrastructure (507 cases), forestry (213 cases), mining (212 cases), and other sectors such as agriculture, coastal areas, and military facilities¹⁶. These data illustrate the expanding scale of land disputes across sectors and regions, predominantly involving vulnerable communities confronting corporations or actors with greater access to political and administrative power. This situation underscores the urgency of more inclusive agrarian reform and consistent law

¹⁴ Sri Mamudji Soerjono Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Ed. 1 Cet (Rajawali Pers, 2009).

¹⁵ Peter Mahmud Marzuki, "Penelitian Hukum, Cetakan Ke-11," *Jurnal Pembangunan Hukum Indonesia*, 2022.

¹⁶ Laporan Tahunan Konsorsium Pembaharuan Agraria, <https://www.kpa.or.id/2024/01/peluncuran-catatan-akhir-tahun-2023/>, pada 16 Januari 2024

enforcement to protect community land rights.

To provide an empirical overview of the structural distribution of land conflicts in Indonesia, Table 1 summarizes agrarian dispute data across major sectors between 2015 and 2023. The concentration of conflicts in economically strategic sectors illustrates how land mafia practices intersect with land valuation processes, reinforcing systemic inequality in land economic value.

Table 1. Distribution of Land Conflicts by Sector in Indonesia (2015–2023)

Sector	Number of Cases	Area Affected (ha)	Affected Households
Plantation	1,131	2,700,000	404,000
Property	609	–	–
Infrastructure	507	–	–
Forestry	213	–	–
Mining	212	–	–
Other sectors (agriculture, coastal areas, military facilities)	267	–	–
Total	2,939	> 6,300,000	≈ 1,700,000

Source: Agrarian Reform Consortium (2023).

The dominance of plantation, property, and infrastructure sectors indicates that land conflicts are not random occurrences but are embedded within capital-intensive development trajectories, where legal uncertainty becomes a strategic entry point for land mafia networks to distort land economic value

Documented cases—such as in Jambi, where state losses reached approximately IDR 1.19 trillion over 580,790 m² of land; in Central Java, with potential losses of IDR 3.41 trillion involving 82.66 hectares; and in Lampung,

where former National Land Agency officials were implicated in certificate forgery—demonstrate that land mafia practices generate systemic harm to both individuals and the state. These practices interfere with land market mechanisms, reallocating economic benefits from the broader public to select groups with privileged access to administrative authority.

Within the framework of land economic value theory, land value is determined by location, productivity, legal certainty, and development potential¹⁷. Land mafia activities directly undermine these foundations, particularly legal certainty and tenure security. Land with objectively high value may depreciate when exposed to dispute risks arising from duplicate certificates or forged documents.¹⁸ Theoretically, this condition can be explained through a real options perspective, whereby legal uncertainty prompts investors to delay or cancel land utilization, causing market prices to diverge from actual potential value. This uncertainty explains why strategically located land in several regions loses economic attractiveness once entangled in land mafia practices.

The impacts of land mafia extend beyond declining market value to long-term investment stagnation and reduced land productivity. International studies on land tenure interventions show that strengthened property rights increase agricultural investment, productivity, and landholder income.¹⁹ Conversely, in Indonesia, weak legal protection enables the opposite dynamic:

¹⁷ Erwin Kallo, *Perspektif Hukum Dalam Dunia Properti: Sebuah Upaya Pengembangan, Pemajuan, Serta Pencerahan Hukum Dalam Dunia Properti Di Indonesia*.

¹⁸ Aditya Nurahmani, “Kajian Kebijakan Pengendalian Di Bidang Pertanahan Dalam Mencegah Dan Memberantas Para Spekulasi Dan Mafia Tanah Di Ibu Kota Nusantara,”

Bina Hukum Lingkungan Vol.7, no. No.3 (2023): p.290-309.

¹⁹ Mokhammad Arif and Mellydia Eka Hidayatulloh, Saputri, “Mafia Tanah Menurut Kebijakan Undang- Undang Pertanahan,” *Dinamika Hukum & Masyarakat* Volume 3, no. 1 (2020): 1–15.

lawful owners lose incentives to invest, while mafia networks exploit uncertainty for speculative gain. Resulting price distortions affect not only local land values²⁰, but also exacerbate distributive inequality, as affected communities are often compelled to accept compensation below market rates in public land acquisition processes.²¹ From a Rawlsian distributive justice perspective, articulated by John Rawls, this condition clearly violates the principle of *justice as fairness*, as substantial benefits accrue to a small group while affected communities bear disproportionate losses.²²

Moreover, land mafia practices impose significant social and macroeconomic costs²³. Numerous national strategic projects have been delayed due to ownership disputes, particularly in Central Java, where duplicate documentation and forged authentic deeds have slowed investment realization.²⁴ In land economics theory, infrastructure development and improved accessibility should increase land value; however, under such conditions, land values stagnate or decline due to the inability to utilize land optimally.²⁵ The broader consequences include the loss of development multiplier effects, delayed regional economic

growth,²⁶ and declining investor confidence in Indonesia's land market.²⁷

Land economic value inequality also reflects an unjust "value transfer." Land mafia actors extract economic surplus through administrative manipulation and price speculation, while communities lose both rights and land value due to weak bargaining positions²⁸. Sociologically, this generates new forms of inequality within the land sector, reinforces oligopolistic control over land access, and erodes public trust in the state as guarantor of land rights²⁹. At this point, land—originally intended as an instrument of social welfare—transforms into a vehicle for capital accumulation by mafia networks.

These findings align with the work of Dianto Bachriadi and Edward Aspinall, who emphasize that secure land tenure is closely associated with improved land-use efficiency and sustainable investment.³⁰ In the absence of legal certainty, dispute risks reduce land prices through a legal risk discount mechanism³¹, causing Indonesia's land market to frequently diverge from its true economic value.

Accordingly, land mafia practices

²⁰ Vani Wirawan et al., "Measuring the Land Mafia in Indonesia: New Phenomenon of Extraordinary Crime," *Novum Jus* 18, no. 1 (2024): 311–53, <https://doi.org/10.14718/NovumJus.2024.18.1.11>.

²¹ Umami Habsyah et al., "Tanggung Jawab Hukum Penilai Publik Untuk Ganti Kerugian Dalam Pengadaan Tanah Bagi Kepentingan Umum Yang Berkepastian Hukum," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 5 (2024): 330–44, <https://doi.org/10.62383/aliansi.v1i5.441>.

²² Angga Christian, Ainun Nabilah, "Teori Keadilan Jhon Rawls."

²³ Lavinia Piemontese, "Uncovering Illegal and Underground Economies: The Case of Mafia Extortion Racketeering," *Journal of Public Economics* 227 (2023), <https://doi.org/10.1016/j.jpubeco.2023.104997>.

²⁴ Dianto Bachriadi and Edward Aspinall, "Land Mafias in Indonesia," *Critical Asian Studies* 55, no. 3 (2023): 331–53, <https://doi.org/10.1080/14672715.2023.2215261>.

²⁵ Vani Wirawan et al., "Measuring the Land Mafia in Indonesia: New Phenomenon of Extraordinary Crime."

²⁶ Paolo Pinotti, "The Economic Costs of Organised Crime: Evidence from Southern Italy," *The Economic Journal* 125, no. 586 (2015): F203–32, <https://doi.org/10.1111/eoj.12235>.

²⁷ Dianto Bachriadi and Aspinall, "Land Mafias in Indonesia."

²⁸ Dianto Bachriadi and Aspinall, "Land Mafias in Indonesia."

²⁹ Vani Wirawan et al., "Measuring the Land Mafia in Indonesia: New Phenomenon of Extraordinary Crime."

³⁰ Dianto Bachriadi and Aspinall, "Land Mafias in Indonesia."

³¹ Kristina Dietz, "Agrarian Change through Speculation: Rural Elites as Land Brokers for Mining in Colombia," *Journal of Agrarian Change* 23, no. 4 (2023): 706–28, <https://doi.org/10.1111/joac.12563>.

constitute not merely a criminal issue but a structural problem that distorts land values, obstructs development, and produces social injustice. Addressing this challenge therefore requires more than administrative reform; it demands justice-oriented regulatory reconstruction, transparent land ownership data, and stronger legal protection for communities, so that land may once again function as a source of social welfare and a foundation for sustainable development.

Regulatory Loopholes and Weak Legal Implementation

Although Indonesia's legal framework, particularly Law No. 2 of 2012 on Land Acquisition for Public Interest, formally incorporates principles of justice, transparency, and legal certainty, empirical practice demonstrates that this regulation has not been fully effective. One major weakness lies in the ambiguous definition of "public interest," which remains open to multiple interpretations and is therefore susceptible to politicization for specific development projects. This ambiguity frequently creates opportunities for abuse of authority and generates conflicts between government agencies, investors, and landowning communities³². Another critical gap arises from weak administrative verification in land registration, rendering ownership documents vulnerable to forgery or manipulation by land

mafia networks seeking to seize community land rights³³.

Empirical cases illustrate how regulatory loopholes and weak legal implementation provide fertile ground for land mafia operations. For example, the Jambi case (2024) resulted in state losses of approximately IDR 1.19 trillion involving around 580,790 m² of land, where land mafia actors exploited administratively defective documents to gain control over land.³⁴ Similarly, in Central Java, two major cases caused losses exceeding IDR 3.4 trillion due to forged authentic deeds and inadequate supervisory mechanisms³⁵. In Lampung, certificate forgery involving National Land Agency personnel further demonstrates how weak administrative verification enables internal collusion, leading to legal uncertainty and loss of land economic value for lawful owners.³⁶ These facts confirm that even well-designed regulations remain ineffective without strong implementation and consistent oversight.

From the perspective of legal justice theory articulated by John Rawls, this condition violates the principle of *justice as fairness*. Rawls emphasizes that a just basic structure of society must guarantee equal liberties and fair opportunities for all

³² Sulastris Yasim et al., "Land Acquisition for Public Interest Development: Legal and Regulatory Perspectives in Indonesia."

³³ Dahlena, "Menutup Celah Hukum Praktik Mafia Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum."

³⁴ Bisnis.com, Tekuk 3 Kasus Mafia Tanah Jambi, AHY Klaim Selamatkan Uang Negara Rp1,19 Triliun: <https://ekonomi.bisnis.com/read/20240626/47/1777102/tekuk-3-kasus-mafia-tanah-jambi-ahy-klaim-selamatkan-uang-negara-rp119-triliun>.

³⁵ Detik.com, Gebuk Kasus Mafia Tanah di Jateng, AHY Klaim Selamatkan Rp 3,41 T Duit Negara, <https://www.detik.com/jateng/hukum-dan-kriminal/d-7439565/gebuk-kasus-mafia-tanah-di-jateng-ahy-klaim-selamatkan-rp-3-41-t-duit-negara>

³⁶ Antara Lampung, Oknum PNS BPN Jadi Terdakwa Kasus Penipuan Rp300 Juta Modus Jasa Pembuatan Sertifikat, <https://lampung.antaranews.com/berita/767081/oknum-pns-bpn-jadi-terdakwa-kasus-penipuan-rp300-juta-modus-jasa-pembuatan-sertifikat>.

individuals.³⁷ However, in Indonesia's land acquisition practices, it is land mafia networks and actors with bureaucratic access who reap the benefits, while vulnerable communities lose their rights or receive compensation far below market value. This inequality indicates that existing law fails to function as an instrument of distributive justice and instead perpetuates domination by powerful actors over community rights.

Viewed through the theory of Gustav Radbruch, this problem reflects the failure of law to fulfill its three fundamental values: legal certainty, justice, and utility.³⁸ Legal certainty is compromised by vague definitions of public interest; justice is neglected due to disproportionate appraisal processes; and public utility is undermined because land disputes obstruct development and harm communities. In other words, regulation without consistent implementation produces a contradiction whereby law—intended as an instrument of justice—ironically creates space for land mafia practices. malah membuka celah bagi praktik mafia tanah.

From the perspective of Islamic law, land mafia practices exploiting regulatory loopholes and weak enforcement clearly contradict the principles of *maqāṣid al-sharī'ah*. Land, as part of protected property (*hifz al-māl*), must be safeguarded rather than appropriated through document manipulation or administrative collusion. Weak legal protection causes vulnerable communities to lose their rights while mafia groups accumulate profit, violating principles of justice (*'adl*) and eliminating public

welfare (*maṣlaḥah*).³⁹

The integration of theoretical analysis with empirical evidence indicates that the persistence of land mafia practices is inseparable from regulatory gaps and weak implementation of land law. From a Rawlsian framework, this condition reflects unequal distribution of benefits that disproportionately harms marginalized communities. Meanwhile, Radbruch's perspective reveals the failure of land law to uphold its foundational values of certainty, justice, and utility.

Furthermore, from the standpoint of Islamic law, land mafia practices clearly violate *maqāṣid al-sharī'ah* by neglecting property protection (*hifz al-māl*), denying justice (*'adl*), and eroding social welfare (*maṣlaḥah*). Therefore, land mafia is not merely a technical administrative problem but a normative crisis that necessitates legal reconstruction grounded in substantive justice and oriented toward public welfare..

A Comprehensive Strategy for Preventing Land Mafia Practices: Integrating Positive Law and the Principles of Maqāṣid al-Sharī'ah

This study argues that addressing land mafia practices in Indonesia requires a multidimensional governance approach rather than fragmented administrative interventions.⁴⁰ Although Law No. 2 of 2012 and its derivative regulations formally establish principles of justice, transparency, and legal certainty in land acquisition, their practical effectiveness remains constrained by regulatory ambiguity, weak institutional

³⁷ Angga Christian, Ainun Nabilah, "Teori Keadilan Jhon Rawls."

³⁸ Gustav Radbruch, *Rechtsphilosophie* (Stuttgart: Koehler Verlag, 1973), hlm. 107 dalam Mertokusumo, "Mengenal Hukum Suatu Pengantar, Cet."

³⁹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

⁴⁰ Syamsuddin Pasamai and Salle, "Some Thoughts Regarding Law Enforcement Efforts Against Land Mafia Activities," *Journal Transnational Universal Studies* 2, no. 12 (2024): 701–10, <https://doi.org/10.58631/jtus.v2i12.138>.

oversight, and entrenched bureaucratic collusion. Consequently, land mafia practices should be understood not merely as isolated criminal acts, but as manifestations of structural governance failure within the land administration system. Within this context, *maqāṣid al-sharī'ah* provides a normative-evaluative framework to assess legal reforms based on their substantive capacity to protect property rights (*hifẓ al-māl*), ensure distributive justice ('*adl*), and advance public welfare (*maṣlaḥah*), thereby repositioning Islamic law from moral reference to operational regulatory logic.

The establishment of the Anti-Land Mafia Task Force represents a repressive institutional response aimed at accelerating enforcement through cross-agency coordination involving the Ministry of Agrarian Affairs/National Land Agency, law enforcement authorities, and prosecutorial bodies.^{41,42} While this mechanism reflects an attempt to safeguard property rights (*hifẓ al-māl*) and prevent systemic harm (*sadd al-dharā'i'*), its predominantly ad hoc character limits its structural effectiveness. In practice, task force-based governance tends to prioritize episodic enforcement over institutional transformation, leaving underlying vulnerabilities—such as administrative opacity and internal collusion—largely intact. From a *maqāṣid al-sharī'ah* perspective, enforcement mechanisms must therefore be evaluated not only by their

punitive capacity but also by their ability to generate durable institutional trust and redistribute legal protection toward vulnerable landholders, without which coercive interventions risk becoming symbolic rather than transformative.

The next strategy involves strengthening regulation and law enforcement. Criminal law instruments can be directed toward prosecuting corruption, fraud, and document forgery⁴³, while civil law mechanisms may be employed to annul illegal transactions and restore community land rights⁴⁴. Formally, this dual-track approach embodies the principle of distributive justice ('*adl*) by positioning law as a protective instrument for vulnerable landholders. However, persistent deficiencies in judicial integrity, selective enforcement, and protracted litigation processes significantly weaken its deterrent effect, allowing land mafia actors to exploit procedural delays and evidentiary asymmetries. This condition exposes a structural disjunction between formal legality and substantive justice, wherein legal mechanisms operate procedurally yet fail to correct unequal power relations embedded in land acquisition processes. Within the *maqāṣid al-sharī'ah* framework, such failures signal an erosion of public welfare (*maṣlaḥah*), indicating that legal reform must move beyond punitive orientation toward equity-centered enforcement capable of rebalancing bargaining positions between the state,

⁴¹ Aarce Tehupeiry, "Land Mafia Case Handling Through the Optimalization of Land Mafia Task Force Role," *Sasi* 29, no. 2 (2023): 214, <https://doi.org/10.47268/sasi.v29i2.1185>.

⁴² Amrullah and Herman Bakir, "Eradication of Land Mafia in Indonesia by the Ministry of Agrarian Affairs and Spatial Planning of the Republic of Indonesia or the National Land Agency," *Edunity Kajian Ilmu Sosial Dan Pendidikan* 3, no. 11 (2024): 1129–47, <https://doi.org/10.57096/edunity.v3i11.329>.

⁴³ Yuda Pratama Darmawan et al., "Criminal Policy on Countering Organized Crime Against Land Ownership in the Perspective of Criminal Law Reform," *JUSTISI* 11, no. 2 (2025): 456–72, <https://doi.org/10.33506/js.v11i2.3902>.

⁴⁴ Akbar Kurnia Rahman et al., "As-Syar'i: Jurnal Bimbingan & Konseling Keluarga Strategi Penegakan Hukum Dalam Penyelesaian Praktik Mafia Tanah Dengan Instrumen Hukum Perdata Di Indonesia," *Jurnal Bimbingan Dan Konseling Keluarga* 6, no. 2 (2024): 2000–2012, <https://doi.org/10.47476/assyari.v6i2.6833>.

investors, and affected communities.

Furthermore, technological utilization through the One Map Policy and land digitalization constitutes a key instrument in promoting transparency, accuracy, and accountability.⁴⁵ Integrated land information systems reduce overlapping claims and constrain opportunities for document manipulation, aligning with the *maqāṣid* principle of *sadd al-dharā'i'* by closing pathways to legal harm. Nevertheless, digital transformation also introduces new governance risks, including technological exclusion in rural areas, asymmetrical access to information, and the potential consolidation of data control within centralized bureaucratic structures. From a contextual Islamic legal perspective, such risks must be critically addressed, as digitalization that reproduces inequality undermines the realization of public welfare (*maṣlahah*). Accordingly, technological reform must be accompanied by inclusive safeguards and participatory access mechanisms to ensure that transparency does not become a privilege of administrative elites but functions as a shared public resource.

The role of Land Deed Officials (PPAT) and the National Land Agency (BPN) is also highly significant in preventing land mafia practices.⁴⁶ Strengthening their roles through rigorous document verification, rejection of suspicious transactions, and accelerated registration programs reflects the Islamic legal principles of *amānah* (trustworthiness) and *mas'ūliyyah* (accountability). However, documented

involvement of certain officials in land mafia networks exposes a deeper legitimacy crisis within land governance institutions. This condition reveals that technical administrative reforms alone are insufficient; without ethical reconstruction of bureaucratic culture and credible accountability mechanisms, institutional authority risks becoming complicit in rights violations. Within the *maqāṣid* framework, such failures represent a breach of *ḥifẓ al-māl*, as the very institutions mandated to protect property instead facilitate its dispossession.

The final strategy concerns legal education and enhancing public awareness. Community legal literacy must be improved so that citizens can understand land administration procedures while recognizing land mafia *modus operandi*.⁴⁷ Legal education within the *maqāṣid al-sharī'ah* framework constitutes *taḥqīq al-maṣlahah* (realization of public welfare), as legally aware communities are better equipped to protect their property rights. However, low legal awareness—particularly in rural areas—combined with limited access to information, renders this effort vulnerable to substantial structural challenges.⁴⁸

These five strategies demonstrate that preventing land mafia practices requires a multidimensional approach. Repressive measures are implemented through task force formation and law enforcement; preventive measures are pursued via data digitalization and optimization of PPAT/BPN; while cultural

⁴⁵ Ponco Hartanto et al., "Corruption Policy Challenges in Combating Land Mafia: Experiences from Several Countries," *Journal of Human Rights, Culture and Legal System* 4, no. 3 (2024): 521–654, <https://doi.org/10.53955/jhcls.v4i3.233>.

⁴⁶ Hamidah Nur'Ainiyah et al., "The Role of Land Deed Maker Officials (PPAT) and the National Land Agency (BPN) in Prevention of Land Mafia," *Sultan Agung*

Notary Law Review 4, no. 3 (2022): 882, <https://doi.org/10.30659/sanlar.4.3.882-894>.

⁴⁷ Syamsuddin Pasamai and Salle, "Some Thoughts Regarding Law Enforcement Efforts Against Land Mafia Activities."

⁴⁸ Vincentius Setyawan, "Pancasila As A Philosophical Basis Of Law Formation In Indonesia," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (2023): 1–8.

dimensions are strengthened through community legal education. When supported by *maqāṣid al-sharī'ah* principles—namely property protection (*ḥifẓ al-māl*), justice (*'adl*), and public welfare (*maṣlaḥah*)—this strategy not only addresses technical deficiencies but also contributes to building a land governance system that is more just, transparent, and oriented toward public well-being.⁴⁹ Accordingly, contextual Islamic legal reconstruction may serve as an ethical and normative foundation for developing resilient land regulations capable of confronting land mafia practices.⁵⁰

Legal Reconstruction Model: Integrating Positive Law and *Maqāṣid al-Sharī'ah*

This study proposes a contextual legal reconstruction model that integrates Indonesia's positive land law framework with the normative objectives of *maqāṣid al-sharī'ah* to address structural vulnerabilities enabling land mafia practices.⁵¹ The model departs from purely administrative reform by repositioning land governance within a justice-oriented normative architecture that combines legal certainty, distributive fairness, and public welfare.⁵²

At the normative level, reconstruction begins with redefining “public interest” in land acquisition not merely as developmental necessity, but as a value-based standard grounded in substantive justice.⁵³ This requires embedding proportionality and equity into valuation mechanisms, ensuring that compensation reflects not only market price but also social function and livelihood sustainability. In this framework, *maqāṣid al-sharī'ah*—particularly the protection of property (*ḥifẓ al-māl*), justice (*'adl*), and public welfare (*maṣlaḥah*)—operates as an evaluative lens to assess whether land acquisition outcomes genuinely serve collective benefit or disproportionately burden vulnerable communities.⁵⁴

Institutionally, the model emphasizes strengthening land governance through integrated verification systems, enhanced accountability of land officials, and the transition toward a positive publication land registration system. Digital land administration, interoperable databases, and transparent ownership records function as structural safeguards against document manipulation and administrative collusion.⁵⁵ Simultaneously, institutional ethics must be

⁴⁹ D. Witro, “Urgensi Pemahaman Terhadap Maqashid Al-Syarī'ah Dan Perubahan Sosial Dalam Istibath Al-Ahkam,” *De Jure: Jurnal Hukum Dan Syarī'ah* 13, no. 2 (2021): 222–39, Scopus, <https://doi.org/10.18860/j-fsh.v13i2.13818>.

⁵⁰ A. O. Chapakia and A. Hamsa, “Integration of Maqashid Syaria in Nurcholish Madjid's Thinking about Principles for Effective Good Governance,” *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 45–62, Scopus, <https://doi.org/10.29240/jhi.v9i1.9701>.

⁵¹ A. Waluyo, “The Developmental Policy of Halal Product Guarantee in the Paradigm of Maqasid Shariah in Indonesia,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 20, no. 1 (2020): 41–60, Scopus, <https://doi.org/10.18326/ijtihad.v20i1.41-60>.

⁵² A. A. Budiman et al., “Wājibah Will for Non-Muslim Heirs in Indonesia: A Legal Political Perspective Based on

Justice and Welfare,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024): 223–50, Scopus, <https://doi.org/10.18326/ijtihad.v24i2.223-250>.

⁵³ R. J. R. Tambunan et al., “Justice, Land, and Sharia: Conceptualizing Agrarian Courts in the Settlement of Land Ownership Disputes,” *De Jure: Jurnal Hukum Dan Syarī'ah* 17, no. 2 (2025): 530–52, Scopus, <https://doi.org/10.18860/j-fsh.v17i2.32486>.

⁵⁴ S. N. Fitriana and I. Nur, “Regulation of Foreign Workers Based on Job Creation Act of Maslahah Perspective,” *Juris: Jurnal Ilmiah Syariah* 20, no. 2 (2021): 179–88, Scopus, <https://doi.org/10.31958/juris.v20i2.4274>.

⁵⁵ J. Anggriani et al., “Digitalization of Land Certification: Legal Perspectives from Islamic, Positive, and Administrative Law,” *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 606–30, Scopus, <https://doi.org/10.29240/jhi.v10i2.12921>.

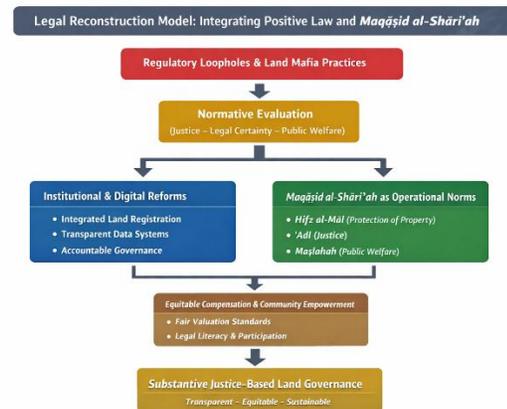
reinforced through professional integrity standards for land offices and deed officials, aligning bureaucratic responsibility with the Islamic legal principles of *amanah* (trust) and *mas'ūliyyah* (accountability).⁵⁶

Procedurally, the reconstruction advances a justice-based appraisal framework by recalibrating valuation practices. Rather than treating compensation as a technical calculation, the model situates appraisal within a distributive justice paradigm, ensuring balanced bargaining positions between the state and landholders. This approach mitigates asymmetric power relations and prevents the systematic undervaluation that frequently accompanies land acquisition processes affected by mafia networks.

At the preventive level, the model integrates technological governance with socio-legal empowerment. Digitalization of land data functions as *sadd al-dharā'i'* (closing pathways to harm), while community legal literacy serves as *tahqīq al-maṣlahah* (realization of public benefit). Public participation mechanisms are therefore essential, enabling communities to monitor land transactions, recognize fraudulent practices, and assert their rights within formal legal processes.

Figure 1 illustrates the proposed legal reconstruction model integrating positive land law with *maqāṣid al-sharī'ah* as operational norms for justice-oriented land governance.

Figure 1. Legal Reconstruction Model: Integrating Positive Law and *Maqāṣid al-Sharī'ah*



Conceptually, this reconstruction transcends conventional regulatory reform by positioning Islamic legal principles not as symbolic moral references but as operational norms shaping land governance architecture. By synthesizing positive law with *maqāṣid al-sharī'ah*, the model reframes land not merely as an economic commodity but as a social trust whose governance must prioritize equity, legal certainty, and collective welfare.⁵⁷

Accordingly, the proposed reconstruction offers a transformative framework for addressing land mafia practices. It aligns formal legality with substantive justice, restores the social function of land, and establishes an integrated system in which legal norms, institutional design, and ethical foundations converge to produce a more transparent, equitable, and sustainable land governance regime.

⁵⁶ K. Komaruddin, "Fairness in the Distribution of Land Ownership in Indonesia Based on Islamic Law Perspective," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 20, no. 2 (2020): 211–34, Scopus, <https://doi.org/10.18326/ijtihad.v20i2.211-234>.

⁵⁷ A. W. Laksana et al., "Integrating Maqasid Al-Shari'ah in Contemporary Islamic Legal Reform on Drug Policy," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 416–39, Scopus, <https://doi.org/10.32332/milrev.v4i1.10665>.

Conclusion

This study demonstrates that land economic value inequality in public land acquisition in Indonesia is not merely a consequence of market dynamics but is structurally produced through land mafia practices that manipulate prices, ownership documents, and acquisition procedures. These practices persist due to regulatory loopholes and weak legal implementation, despite the formal incorporation of justice, transparency, and legal certainty within Law No. 2 of 2012. Analysis grounded in Rawlsian distributive justice, Radbruch's legal values, and *maqāṣid al-sharī'ah* reveals that this condition constitutes a normative crisis that simultaneously undermines legal certainty, distributive justice, property protection (*hifz al-māl*), and public welfare (*maṣlahah*).

From a theoretical perspective, this research contributes to socio-legal scholarship by conceptualizing land mafia practices as a structural distortion of land economic value rather than merely criminal or administrative misconduct. By integrating land economics with legal justice theory and Islamic legal principles, the study advances a Legal Reconstruction Model that shifts land governance from procedural compliance toward substantive justice. This integrative framework represents the study's principal novelty, offering a contextual Islamic legal approach to addressing land-related inequalities that has been largely absent in previous literature.

Practically, the findings underscore the necessity of a comprehensive anti-land mafia strategy encompassing regulatory reform, institutional strengthening, land digitalization, optimization of PPAT and National Land Agency functions, and community legal education. When reinforced by *maqāṣid al-*

sharī'ah principles, these measures move beyond technical solutions to promote equitable value distribution and restore land's social function. Accordingly, land law reform should prioritize clarifying the definition of "public interest," strengthening land registration toward a positive publication system, accelerating digital transformation, reinforcing institutional integrity, and expanding legal literacy to empower communities against exploitative acquisition practices.

This study is not without limitations. Its normative juridical design relies primarily on secondary empirical sources, which constrains granular analysis of localized land conflict dynamics. Future research may therefore benefit from incorporating field-based socio-legal methodologies to capture lived experiences of affected communities and to evaluate the effectiveness of digital land governance reforms in practice.

Ultimately, this research affirms that land mafia practices represent a structural governance failure requiring transformative legal intervention. By positioning *maqāṣid al-sharī'ah* as an ethical and normative foundation for regulatory reconstruction, this study offers a pathway toward land governance that is not only legally certain but also socially just and developmentally sustainable.

CRediT authorship contribution statement

Agus Triono: Conceptualization, Methodology, Formal analysis, Supervision, Project administration, Writing – original draft. Andriyan Syaputra: Data collection, Investigation, Literature review, Data curation, Writing – review & editing. FX Sumarja: Validation, Legal analysis, Theoretical framework development, Writing – review & editing. Ima Frafika Sari: Comparative analysis,

Methodological refinement, Writing – review & editing. Makmur Harun: Conceptual validation, Critical revision, Academic supervision, Writing – review & editing.

Declaration of competing interest

The authors declare that they have no known competing financial, institutional, or personal interests that could have appeared to influence the work reported in this paper.

Acknowledgements

The authors gratefully acknowledge the academic and institutional support provided by Universitas Lampung. The authors also extend their appreciation to Universiti Utara Malaysia and Universiti Kebangsaan Malaysia for their scholarly environment and collaborative support that contributed to the development of this research. Special thanks are addressed to colleagues, peer reviewers, and academic partners who provided constructive feedback throughout the manuscript preparation process. The authors further acknowledge all informants and research participants for their valuable insights and cooperation.

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