

## Comparative Positive Law and Islamic Law in Prosecution of The Land Mafia

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### Abstract

*Indonesia is still faced with the issue of land mafia that causes many problems and losses to the community, various policies have been made, one of which is by forming a task force, but until now there are still many unresolved cases. This research aims to answer land law problems arising from the existence of land mafia and how the direction of positive law and Islamic law in addressing land mafia. The method used in the preparation of this research is a juridical-normative approach, which is a research that focuses or examines how the application of legal norms/codes or rules in positive law. In addition, normative juridical research focuses on library materials and regulations used as the basic material for its preparation. The result of this research is that the positive law governing the eradication of the land mafia in Indonesia is currently not firmly regulated related to the land mafia, it can be seen from the absence of specific laws governing the land mafia and the role of the task force function whose authority is still lacking and from various cases that have not been resolved. In the perspective of Islamic Law, the land mafia has strict and serious penalties and clear sanctions, because the practice of land mafia is forbidden and the sanctions threatened are very severe. Land law problems arising from the existence of the land mafia are the existence of multiple certificates, the transfer of rights carried out with documentary evidence and the fake transfer process is also engineered, hampering the agrarian reform program, the commotion between the disputing communities, the deprivation of land rights from people who cannot fight because of the land mafia network to the judicial realm.*

Keywords: *Islam, State, Land Mafia, Land Mafia Task Force*

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## I. INTRODUCTION

The State of Indonesia is a state of law, this is stated in Article 1 paragraph (3) of the 1945 Constitution of the Unitary State of the Republic of Indonesia which reads "The State of Indonesia is a state of law" the meaning of the paragraph has long consequences that the administration of the state in Indonesia must be based on law or law must be used as a guide and basis in the administration of the State.

In many cases, including the regulation or management of land as will be discussed in this paper, it must also be based on law. It is undeniable that with the increasing development, the need for land is also increasing. Land in addition to having economic value, land is also a place where families and communities live, a place to earn a living as well as a place where people

who die are buried<sup>1</sup>. Land is a gift from God Almighty and as an important natural resource for mankind on earth. The relationship between humans and land is not only a place to live, land is also a resource for human survival, land is also for most people a very interesting and promising business commodity, especially in terms of investing. This investment includes at least two things, namely the first to spend at this time to expect future profits, the second to spend definitely for profits that cannot be ascertained.<sup>2</sup>

Soil is one of the important elements that form the basis for building places that serve as infrastructure for human habitation.<sup>3</sup> Land is so important in our daily lives that we all believe that we need land to survive. Land is also considered a valuable asset with high economic value, as it can encourage the development of various regions of the country, especially Indonesia.

Particularly in urban areas, land prices are increasing rapidly compared to the previous year due to the availability of less land compared to the demand for land. As explained earlier, the impact is that land prices fluctuate depending on the dynamics of development, and if you look closely, it is difficult to find land in urban areas, meaning that even if it is available, it can be very expensive. This can have a positive impact on landowners and improve their welfare.<sup>4</sup> On the other hand, it also has a negative impact as capital owners compete for land by all means, both legal and illegal.<sup>5</sup>

The high demand for land availability in development and investment has become an opportunity for the land mafia to take advantage. The presence of the land mafia has led to various land problems and disputes. is an individual, group, and/or organization that deliberately takes action to seize the land rights of another party in order to commit a criminal act that can result in delayed or slow management of land cases. Land cases are disputes, conflicts, or even land cases submitted to the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency and the Regional Office of the National Land Agency, the Land Office in accordance with their authority to obtain a handling and settlement in accordance with the provisions of laws and regulations.<sup>6</sup> The land mafia has several ways to control land.

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<sup>1</sup> Septya Hanung Surya Dewi, I Gusti Ayu Ketut Rachmi Handayani, Fatma Ulfatun Najicha. "Position and Protection of Indigenous Peoples in Occupying Indigenous Forests". *Journal of Law*. Vol 4 No 1. 2020.

<sup>2</sup> Santoso, B. (2013). *Profit Multiplies with Land and House Investment-Revised Edition*. Elex Media Komputindo. p 1

<sup>3</sup> Article 1 point 65 of MoF Regulation Number 112/PMK.07/2017 on the Amendment to MoF Regulation Number 50/PMK.07/2017 on the Management of Regional Transfers and Village Funds

<sup>4</sup> Damianus Krismantoro, 2022, Policies to Prevent and Eradicate Land Mafia: Agrarian Reform in Indonesia, *Journal of Citizenship*, 6(3), pp. 6031

<sup>5</sup> Rachmawati, A. D., Mangku, D. G. S., & Yuliantini, N. P. R. (2019). The Role of the Government in Handling the Land Mafia as Protection to Land Rights Owners. *Undiksha Journal of Civic Education*, 7(3), 82-93. pp. 8

<sup>6</sup> Sarima Tiomora Sinaga, 2022, Tackling LAND MAFIA FOR GOOD GOVERNANCE IN SIMALUNGUN DISTRICT, p 11.

One way is to buy land for the community built on state-owned land at low prices. Thus, it also manages land rights that are not regulated in the applicable laws and regulations. In fact, various loopholes are used as opportunities for certain purposes, the most common of which is the falsification of ownership documents.

In the perspective of religion, Islam is one of the religions that has a strong commitment related to rights and obligations, even Islam has harsh and strict sanctions for anyone who violates and takes the rights of others. Islam has its own basis regarding the practice of land mafia, one of which is contained in Surah Al-Baqarah verse 188 and the prophet's hadith as follows:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْءَلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Meaning:

*"Do not eat of the wealth between you by false means, and (do not) bribe the judges with it, that you may eat of the wealth of others by way of sin, while you know." (Surat Al-Baqarah verse 188).*

The verse provides a clear explanation that in Islam the practice of land mafia is strictly prohibited, including prohibiting the practice of taking other people's property rights by illegal means. In the interpretation of Imam Fakruddin ar-Razi also firmly said, such actions are strictly prohibited in Islam.

In addition to the above verse, there are many other words of Allah. Furthermore, there is also the following hadith of the prophet:

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ حَدَّثَنَا جَرِيرٌ عَنْ سُهَيْلٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَأْخُذُ أَحَدٌ شِبْرًا مِنَ الْأَرْضِ بِغَيْرِ حَقِّهِ إِلَّا طَوَّقَهُ اللَّهُ إِلَى سَبْعِ أَرْضِينَ يَوْمَ الْقِيَامَةِ

Meaning:

*"Zuhair ibn Harb narrated to me Jarir from Suhail from his father from Abu Hurayrah who said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "None of you takes an inch of land without right, but Allah will crush him with seven layers of earth on the Day of Resurrection."*

In the special region of Aceh we can find a fatwa of the Aceh Ulema Consultative Council which issued a fatwa on the Land Mafia in the Perspective of Islamic Law and Acehese Customs, namely Fatwa No. 2 of 2023 which states that:

1. Whereas the practice of land mafia causes unrest and losses in the midst of society, it is necessary to prevent the practice of land mafia and protect the community.
2. Establishing the first that the land mafia is an organized, very neat, systematic, reasonable, and legal-looking performance network but contains illegal actions and violations of the law with an orientation towards gaining profits for themselves and causing economic losses to other parties.
3. That the practice of Ghasab (confiscation), gharar or fraud, sariqah or theft, talbis

or manipulation, taghyir manar al -ardhi or changing without limits and ghisysy or cheating in relation to land is included in the practice of land mafia.

*Meaning:*

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3. That the practice of Ghasab (confiscation), gharar or fraud, sariqah or theft, talbis or manipulation, taghyir manar al -ardhi or changing without limits and ghisysy or cheating in relation to land is included in the practice of land mafia.
4. The practice of land mafia is haram and a major sin
5. Sanctions against the perpetrators of land mafia practices are hadd (definite and measurable punishment) and/or ta'zir (left to the discretion of the judge).
6. The perpetrators of land mafia practices are obliged to return the property and / or pay the price to the owner
7. Certificates may be used as evidence of ownership with sanctions based on Shariah criteria.
8. Land officers shall exercise all powers and responsibilities in accordance with Acehnesse customary law and applicable regulations.

This is how Aceh as a region that implements Islamic law interprets land mafia, starting from the verses of the Qur'an, the hadith of Rasulullah conveys not to take someone's land rights in large quantities in small amounts or just an inch of land will also get very heavy sanctions. From here we can see that in the perspective of Islamic law, the behavior of the land mafia is something that is very disgraceful and a big sin, and the crime of the land mafia has received serious attention so that the sanctions threatened are very severe for the perpetrators.

It is very clear in the arguments and examples of the imposition of legal status such as Aceh above, that the Apostle said that let alone taking someone's land rights in large

quantities in a small amount or just an inch of land will also get very severe sanctions. From this we can see that in Islamic law, the behavior of the land mafia is something that is highly disgraceful and gets serious attention so that the sanctions threatened are very severe for the perpetrators.

The high price of land, especially in urban areas and developing regions, is due to the high practice of the land mafia when it is driven by lack of supervision, lack of law enforcement, lack of transparency, land is a profitable investment and has high economic value. These factors make it attractive for the land mafia to take personal advantage.

In addition to increasing the price of land above the norm, the land mafia has created conflicts in the community. This cannot be ignored as the problems caused by the land mafia hamper development and disrupt land ownership rights and legal certainty in Indonesia.

Reflecting on the rules of Islamic law that have been very strict in giving huge sanctions to the practice of land mafia, currently the Indonesian State still feels relaxed and less serious in responding to the practice of land mafia. Apart from the rules and sanctions, it can also be seen from the many cases of land mafia actions such as falsification of documents, double documents and so on.

Responding to the problems as above, we conducted a research entitled "**Comparison of Positive Law and Islamic Law in Prosecuting the Land Mafia**".

## **II. LITERATURE REVIEW**

The direction of land law and existing legislation has indeed shown its efforts, that on the formal legal side, crimes against the state are classified as criminal behavior, meaning that it is prohibited and can be sanctioned for anyone who does it, including the behavior of the land mafia. For violations of land rights, it refers to violations of land rights mentioned in Article d in Article 16 jo. Article 53 of the UUPA.

Although there are no specific laws and regulations related to the land mafia, but in the implementation related to the land mafia for those who do can be subject to the following laws and regulations:<sup>7</sup>

1. The crime of land grabbing is regulated in Article 167 of the Criminal Code
2. The crime of giving false oaths and/or false information (including ordering the insertion of false information in an authentic deed) is contained in Article 242 of

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<sup>7</sup> Br SAMOSIR, J. U. L. I. T. A. (2023). *The Role of the Police in Law Enforcement in the Crime of Land Grabbing (Case Study in the North Sumatra Regional Police)* (Doctoral dissertation, Faculty of Law, Islamic University of North Sumatra).

- the Criminal Code.
3. The crime of forgery of documents is regulated in Articles 263, 264, 266, and 274 of the Criminal Code.
  4. The crime of embezzlement of immovable property such as land, houses, rice fields or the crime of stellionaat is regulated in Article 385 of the Criminal Code.
  5. Law No. 5/1960: Basic Agrarian Principles Regulation (UUPA) Article 52.
  6. Law No. 51 /Prp/1960: prohibition of the use of land without permission from the rightful owner or his attorney in Article 6.

From the above regulations, we can certainly say that the seriousness of the government has not been felt because there is no specific legislation and only relies on criminal law in the criminal category, even though the crime or act of the land mafia has become a big problem committed with the involvement of state officials or also law enforcers.

By using the Basic Agrarian Law as it currently stands to root out the land mafia, it has not been utilized effectively. Law enforcers often face various challenges in uncovering land mafia issues, because in addition to knowing the problems of land mafia, they also report problems in verifying land ownership documents.

Legal certainty about punishment for the land mafia is usually just a settlement of land conflicts and disputes, the perpetrators are often not punished thoroughly to the smallest networks. This is important because law enforcement must be carried out thoroughly and fairly.

On the community side, of course, it is very important to receive security guarantees for their land rights and the government must also provide fair legal certainty for the community because sometimes even people who have land certificates cannot be guaranteed ownership because the issuance of the certificate can be canceled.

We often hear about the tasks and efforts of the Ministry of Agrarian Affairs and ATR/BPN, which is committed to eradicating land mafia practices - especially land mafia in collaboration with the Indonesian National Police and the Attorney General's Office - to form the Land Mafia Task Force. This is because the Ministry of Land has been certifying land through the PTSL program to all lands in Indonesia with the intention of implementing the 1945 Constitution of the Republic of Indonesia in Article 33 paragraph

(3) which reads, "The earth, water and natural resources contained therein, are controlled by the state and used for the greatest prosperity of the people".

If we look at the concept of the state controlling the land, water and natural resources contained therein, then the Domain Verklaring mentioned in the Agrarische Besluit Stb. 1970 number 118, which states that the state is the owner of land in all parts of

Indonesia together with the parties (the people) as long as they cannot prove their rights, then it becomes invalid. Thus, the political policy of land or agrarian law leads to the happiness and prosperity of the Indonesian people as a whole based on the nation's philosophy, namely Pancasila, which mandates justice and unity.<sup>8</sup>

Although the 1945 Constitution states that land is to be used for the greatest welfare, the reality still shows that the quantity of poor people is still very large. One of them is related to land ownership or simply the use and utilization of land which is very unequal, this has certainly adds to the reality of the application of the value of justice in society. The birth of Permen Agrarian / Head of BPN No. 18 / 2021 concerning How to Determine Management Rights and Land Rights intends to provide legal certainty to the owner of the right to a plot of land, as well as other rights that have been registered so that they can use it and show proof of their rights.

Legal protection of land rights holders will ensure the involvement of law enforcement officials, especially authorized officials. A case where the land mafia arbitrarily seizes land rights from legitimate landowners is a criminal offense. Of course, legal protection will of course be imposed on the land mafia if there is a violation or *onrechtmatige daad* (an act prohibited by law) which is regulated in Article 1 paragraph of the 1945 Constitution. Legal protection of landowners is regulated in UUPA No. 5 of 1960 concerning basic agrarian regulations which aims to protect land rights holders. This is because one aspect of the UUPA is land registration, which is very important because it is closely related to the protection of citizens' property rights over their own land and the protection of legitimate landowners.

Regarding land registration, there is Government Regulation No. 24 of 1997 concerning the form of land registration which aims to provide legal certainty and legal protection to the owner of land rights in the form of evidence obtained at the end of the real estate registration event in the form of a Land Book and Land Certificate consisting of a copy of the Land Book and Surat Ukur.<sup>9</sup> Based on Article 1 paragraph (3) of the 1945 Constitution, which means that the state guarantees the legal rights of its citizens to ensure legal protection, especially against the abuse of mass power against legitimate landowners.

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<sup>8</sup> Rachmawati, A. D., Mangku, D. G. S., & Yuliantini, N. P. R. (2019). The Role of the Government in Handling the Land Mafia as Protection to Land Rights Owners. *Undiksha Journal of Civic Education*, 7(3), 82- 93.

<sup>9</sup> Aries S. Hutagalung, *Scattered Thoughts on Land Law Issues*, (Jakarta: Indonesian Legal Empowerment Institute: 2005), pp. 81

### **III. METHODOLOGY**

#### **A. Approach Method**

The method used in this research is normative juridical, while in this research using library materials which are basic research data classified as secondary data<sup>10</sup>

#### **B. Data Collection Techniques and Data Collection Tools**

Data collection techniques and data collection tools are carried out through studies obtained from laws and regulations, books, journals, research results, encyclopedias, bibliographies, and observation methods relating to land and land mafia.

#### **C. Research Stage and Research Materials**

Literature research in an effort to find secondary data using primary legal materials and secondary legal materials.

##### **1. Primary Legal Materials**

Primary Legal Materials include laws and regulations related to the writing of this research, namely:

- a. Constitution of the Republic of Indonesia Year 1945;
- b. Criminal Code;
- c. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles State Gazette of 1960 Number 104 and Supplement to State Gazette Number 2043, known as UUPA (Basic Agrarian Law)
- d. And other laws and regulations related to land and land mafia.

##### **2. Secondary Legal Materials**

3. Secondary legal materials are legal materials that provide an explanation of primary legal materials. Secondary legal materials can be in the form of legal opinions, legal principles, and legal opinions obtained from literature, journals, research results, and the internet related to land and land mafia.

#### **D. Data Analysis**

This research data is analyzed using qualitative analysis, namely by explaining the relationship between legal facts and legal rules contained in the law which then describes it in the research results.

### **IV. RESULT AND DISCUSSION**

#### **A. Problems and Handling of The Land Mafia in Indonesia**

##### **1. Land Mafia Problem**

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<sup>10</sup> Martin Roestamy, et. al, *Methods, Research, Reports and Writing of Legal Scientific Works*, Faculty of Law, Djuanda University, Bogor, 2020, p. 41. 41.



The use of land as a major support in human life makes land an important commodity so that in life many people are always required to own land as an effort to survive. The high growth of population growth compared to the availability of land in Indonesia which never increases certainly makes people compete or scramble to buy or own land.

The high demand for land and the attractiveness of business in the land sector encourage the emergence of parties who do not care about how to obtain land in Indonesia, starting from the owners of capital, unscrupulous officials with foreign investors who work with the land mafia to be able to obtain land in Indonesia. Moreover, their target is usually to obtain land that is cheap but with a strategic location. Either way, the land mafia makes a profit either legally or illegally.

The cases that have been crowded in the media about the land mafia have never been exposed. Starting from overlapping land certificates / deeds that are detrimental and hamper development, for example cases in Papua. The Head of the Regional Office (Kakanwil) of the National Land Agency (BPN) of Papua Province, John Wiclif Aupa, A. Ptnh, said that the president had ordered the Minister of ATR BPN to eradicate the land mafia in Indonesia.<sup>11</sup> So far he has cooperated with BPN Papua in eradicating the land mafia, but the land mafia in practice is actually in the BPN office not from outside.

The existence of overlapping land certificates with other land makes a loss of about 4 billion rupiah. Second, lands that do not have proof of land ownership in the form of certificates due to low awareness to register land ownership into the form of certificates with the status of property rights<sup>12</sup> as an effort to avoid the land mafia to make fake certificates.

Incidents like this in Papua also occur in many other regions in Indonesia, including in Palangka Raya City on behalf of Siti Hadijah as Hj Aluh Umi's heir reported a case of alleged falsification of land documents to the Central Kalimantan Police Ditreskrimum.<sup>13</sup> The disputed land is located on Jalan Tjilik Riwut Km 45

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<sup>11</sup> Overlapping Certificates, an Indication of Land Mafia. (2022, December 20). Accessed on November 22, 2023 from <https://cenderawasihpos.jawapos.com/berita-utama/20/12/2022/tumpang-tindih-sertifikat-indikasi-adanyamafia-tanah/>.

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<sup>12</sup> Putri Fransiska Purnama, Efforts to Eradicate Land Mafia in Palangka Raya City, legal literacy, p. 28

<sup>13</sup> Apriando. (2022, May 28) Winning Civil Case, Landowner Reports Document Falsification to Central Kalimantan Police. Accessed on December 22, 2022 from <https://www.borneonews.co.id/berita/265183-menang-perkara-perdata-pemilik-tanah-laporkan-pemalsuandokumen-ke-polda-kalteng>

towards Jalan Tumbang Talaken with certificate No.304 situation drawing dated 03-11-1995 Number 2377 /95 with an area of 18,154 M2 which has been owned by Hj Aluh Umi since 1995.<sup>15</sup> It was discovered that the land had been sold to someone, even though the family had never sold or transferred it to another party.<sup>14</sup> The land mafia has access to land ownership information stored in the Land Computerization System (KKP) of the Ministry of ATR/BPN and is illegal, allowing it to be used illegally. They can enter data, authenticate it, and see changes to the land data they want to manipulate. This is the latest modus operandi of the land mafia by using super accounts to gain illegal access to the Land Activity Computerization System (KKP) at the Ministry of ATR/BPN. In his interview, according to Sunraiza as Inspector General of the Ministry of ATR / BPN said that he did not know that some data had been changed so it was very difficult to detect it.<sup>15</sup> This is very strange, because it hardly makes sense that they hack the website of a state legal entity such as the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency in order to manipulate someone's land data for their personal gain, which proves that data security in the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency is so poor that the land mafia can operate there. In addition to the above, there is also a strong suspicion that the success of the land mafia's activities is due to the interference of government officials and state civil servants, one of whom is in the judiciary because they usually cooperate through bribery to carry out their plans smoothly without any obstacles, and there is also the habit of the land mafia to buy problematic lands that are being litigated.

Many other cases, one of which befell a public figure, Nirina Zubir<sup>16</sup> The incident began with the loss of a land certificate that was engineered by the ART of the person concerned who then changed the name of ownership. The case involved the practice of the land mafia, in terms of falsifying documents / false information

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<sup>15</sup> Ibid.

<sup>14</sup> Rachmawati, Ayu Dewi, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliantini. "The Role of the Government in Handling the Land Mafia as Protection to Land Rights Owners." *Undiksha Journal of Civic Education* 7.3 (2019): 82-93.

<sup>15</sup> Kiwi. (2022, July 20). Police Reveal New Modes of Land Mafia Sidikat, Land Thieves Hack the Land Computerization System. Accessed December 23, 2022 from <https://www.suarapemredkalbar.com/read/nasional/20072022/polisi-ungkap-modus-baru-sindikata-mafia-tanahmaling-tanah-retas-sistem-komputerisasi-pertanahan>

<sup>16</sup> Angelin, M. S. R., Clarissa, I. D., & Widigdo, Z. (2021, December). Nirina Zubir's Land Mafia Case: Is it the Result of Weak Land Law. In *Seminar Nasional Teknologi dan Multidisciplinary Ilmu (SEMNASTEKMU)* (Vol. 1, No. 1, pp. 160-165).

from landowner data as well as PPAT signatures to obtain legality from the required data.

With so many modes of practice of the land mafia today, indeed the State does not remain silent, the actions taken start from forming a task force and mobilizing law enforcers to eradicate the land mafia that has been rampant in Indonesia, after the arrest but does not mean only arrested, but the judicial process and also the recovery for the community or the State that is harmed is also more important than just sentencing to prison to the perpetrators of the land mafia, so that the community and the state feel protected against their land ownership.

The cases that have occurred so far are also evidence that there is a substantial weakness in the protection of land rights by the state as part of the economic, social and cultural rights whose validity is guaranteed by the constitution. In addition, it must also be recognized that it is not only in the realm of substance, because officials in reality sometimes have interests that ultimately violate the rights of the community.

## 2. **Handling the Land Mafia**

In short, in Indonesia today, the eradication of the Land Mafia is done by using sanctions or instruments of Criminal Law. On the other hand, we can see the role of the Government on the issue of how to also prevent the monopoly of capital owners to also become landowners as the purpose of the UUPA.

Currently, land ownership by farmers is still very low, putting them in a position of unemployment which leads to their placement on the poverty line. It is also realized that unemployment and poverty can only be handled if the government is serious about implementing agrarian reform as one of its efforts, namely the will and seriousness of the government to guarantee land ownership for the farming community and the poor.

In the implementation of Agrarian Reform, which is the most effective medium in achieving development success because ownership of land is important for the implementation of socio-economic development, including poverty alleviation and sustainable environmental sustainability.

Land is no longer just a factor of production, but has become an element of prestige, a symbol of wealth and power/authority. This has made land a luxury item that is controlled by financiers or a handful of parties, so that it has become one of the obstacles in the Agrarian Reform efforts that have been arranged since the May 1998 Reformation. Many land dispute conflicts have yet to be resolved due to the land mafia.

In response, the government should be present in the drafting of regulations and related groups among the permanent bodies that can prevent or at least minimize land conflicts and disputes, so that the scope for speculators<sup>17</sup> and land mafia can be minimized.

The government created the Agrarian Reform program by issuing agrarian reform regulations. The government should be proactive rather than reactive in combating land crimes, especially in law enforcement related to conflict prevention and resolution, but it seems that the government still ignores issues related to land. The establishment of a task force to eradicate the land mafia is an effort that should be improved. As of now, the Land Mafia Task Force has been formed, but its implementation has not shown the seriousness of the government, whereas it

should be carried out on an ongoing basis or not be temporary and seasonal.

The elements of the task force as well as the specific laws that authorize it must also be studied. On the other hand, the proposal of many parties related to the establishment of a special court is also something that must get serious or serious attention from the government considering the increasing number of cases caused by the land mafia that cannot be handled effectively. Because of the conspiracy of the land mafia to the judicial realm, the certainty of the people to obtain justice is also disturbed. This also proves that land mafia cases can damage and have implications for other problems.

On several occasions, Indonesian President Joko Widodo (Jokowi) has urged law enforcement agencies, such as the Indonesian National Police (Polri) and the Attorney General's Office (AGO), to effectively combat land-related crimes.

As repeatedly mentioned in eradicating the land mafia cannot only involve law enforcement alone, because the problem has become a big problem that blunders into other problems, an increase in the role of the Ministry, especially the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR / BPN) must also be a concern and focus of the government. In addition, other ministries or institutions must also be involved starting from academic studies to professionals among practitioners must also be involved considering their role will have a good impact on the eradication of the land mafia in Indonesia.

## **B. Land Mafia in Islamic Perspective**

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<sup>17</sup> In KBBI, Speculators are people who seek large profits (in commerce and so on) by speculating (guesses, estimates, and so on).

As explained earlier, Islam is one of the religions that has a strong commitment related to rights and obligations, even Islam has harsh and strict sanctions for anyone who violates and takes the rights of others.

In a religious perspective, Islam has its own basis regarding the practice of land mafia, one of which is contained in Surah Al-Baqarah verse 188 and the prophet's hadith as follows:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
وَلَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِيَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Meaning:

*"Do not eat of the wealth between you by false means, and (do not) bribe the judges with it, that you may eat of the wealth of others by way of sin, while you know."* (Surat Al-Baqarah verse 188).

The verse provides a clear explanation that in Islam the practice of land mafia is strictly prohibited, including prohibiting the practice of taking other people's property rights by illegal means. In the interpretation of Imam Fakruddin ar-Razi also firmly said, such actions are strictly prohibited in Islam.

In addition to the above verse, there are many other words of Allah. Furthermore, there is also the following hadith of the prophet:

و حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ حَدَّثَنَا جَرِيرٌ عَنْ سُهَيْلٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَأْخُذُ أَحَدٌ أَحَدًا شِبْرًا مِنَ الْأَرْضِ بِغَيْرِ حَقِّهِ إِلَّا طَوَّقَهُ اللَّهُ إِلَى سَبْعِ أَرْضِينَ يَوْمَ الْقِيَامَةِ

Meaning:

*"Zuhair ibn Harb narrated to me Jarir from Suhail from his father from Abu Hurairah who said: The Messenger of Allah (peace and blessings of Allaah be upon him) said: "None of you takes an inch of land without right, but Allah will crush him with seven layers of earth on the Day of Resurrection."*

In the special region of Aceh we can find a fatwa of the Aceh Ulema Consultative Council which issued a fatwa on the Land Mafia in the Perspective of Islamic Law and Acehese Customs, namely Fatwa No. 2 of 2023 which states that

1. Whereas the practice of land mafia causes unrest and losses in the midst of society, it is necessary to prevent the practice of land mafia and protect the community.
2. Establishing the first that the land mafia is an organized, very neat, systematic, reasonable, and legal-looking performance network but contains illegal actions and violations of the law with an orientation towards gaining profits for themselves and causing economic losses to other parties.
3. That the practice of Ghasab (confiscation), gharar or fraud, sariqah or theft, talbis or manipulation, taghyir manar al -ardhi or changing without limits and ghisysy or

cheating in relation to land is included in the practice of land mafia.

4. The practice of land mafia is haram and a major sin
5. Sanctions against the perpetrators of land mafia practices are hadd (definite and measurable punishment) and/or ta'zir (left to the discretion of the judge).
6. The perpetrators of land mafia practices are obliged to return the property and / or pay the price to the owner
7. Certificates may be used as evidence of ownership with sanctions based on Shariah criteria.
8. Land officers shall exercise all powers and responsibilities in accordance with Acehese customary law and applicable regulations.

This is how Aceh, as a region that implements Islamic law, interprets land mafia, starting from the verses of the Qur'an, the hadith of Rasulullah conveys not to take someone's land rights in large quantities in small amounts or just an inch of land will also get very heavy sanctions. From here we can see that in the perspective of Islamic law, the behavior of the land mafia is something that is very disgraceful and a big sin and the crime of the land mafia has received serious attention so that the sanctions threatened are very severe for the perpetrators.

## V. CONCLUSION

After discussing the previous chapter, the conclusions of this research are as follows:

1. The legal direction of the legislation governing the eradication of the land mafia in Indonesia is currently not focused, not serious and not firmly regulated related to the land mafia, it can be seen from the absence of laws that specifically regulate the land mafia and the role of the task force function whose authority is still lacking and various cases that have not been resolved due to the actions of the land mafia.
2. Land law problems arising from the existence of the land mafia in Indonesia are the existence of multiple certificates, the transfer of rights carried out with false documentary evidence and the transfer process is also engineered, becoming an obstacle to the success of the agrarian reform program, the commotion between communities in dispute because sometimes the land obtained from the land mafia is sued by the original owner who does not feel transferring his ownership, the deprivation of land rights from people who cannot fight because of the land mafia network to the judicial realm where the judiciary is a place of complaint for justice seekers.
3. In terms of strengthening the duties and authority of the task force to eradicate the land mafia in Indonesia, it can be done by developing a Land Mafia Eradication

Model by strengthening the laws and regulations that specifically regulate the land mafia and establishing institutions that are specialized in handling the land mafia such as the Special Agency for Handling Anti Land Mafia, the Special Land Court Agency and the Supervisory Board so that the handling of the land mafia can be done optimally.

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- Antinomy is a term used in logic and law to denote a real or apparent inconsistency or contradiction between two authorities or proposals. See Ach Tahir, "Problems of Judges in Facing Antinomy," *Supremasi Hukum* 1, no. 1 (2012): 143–60, <https://doi.org/https://doi.org/10.14421/sh.v1i1.1900>.
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- In KBBI, Speculators are people who seek large profits (in commerce and so on) by speculating (guesses, estimates, and so on).
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