



## Restriction of Private Land Management by the Community from the Perspective of Maslahah Mursalah (Case Study of Runding Village, Panyabungan Barat District, Mandailing Natal Regency)

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**Abstract** - Land is essential for human life, serving as a base for agriculture, housing, and economic activities. In Indonesia, land management and ownership are regulated to benefit both individuals and the community. Conflicts, however, can arise when private land use negatively impacts neighboring areas, as seen in Runding village. Here, a farmer's decision to plant oil palm upstream in Negung village has caused water scarcity for downstream farmers, leading to crop failures. Article 20 of Indonesia's Basic Agrarian Law (UUPA), as explained by Ali Ahmad Chomzah, emphasizes that land ownership rights carry a social function and must not harm others. Land use should adapt to its circumstances and respect community welfare. This aligns with the concept of Maslahah Mursalah in Islamic law, which considers public interest and welfare, derived from the broader goals of Sharia. In Runding village, such restrictions aim to balance individual land use with community welfare, reflecting the principles of public and individual welfare. This research aims to explore the regulatory framework of land ownership rights and how Maslahah Mursalah can guide the management of privately owned land. Using empirical legal research with a case study, statute, and conceptual approach, this study seeks to understand how land management restrictions can ensure both individual rights and societal welfare. The research highlights the potential to balance private land rights with social responsibilities, contributing to sustainable land management practices that align with legal and ethical principles, fostering harmony between landowners and the community.

**Keywords:** Right of Ownership, Land, Maslahah Mursalah

### I. INTRODUCTION

Land is an integral part of human life and essential for human survival. People engage in various activities to earn a living, such as farming and building homes. With the advent of industrialization in Indonesia, the development of land use has increased significantly in both quality and quantity (Urip Susanto, 2012). Restrictions on the management of privately owned land by the community have become a crucial issue in agrarian and social law. The perspective of maslahah mursalah provides a framework for understanding these restrictions in Islam, emphasizing public welfare and social justice. (Yusmita, 2023)

Maslahah mursalah is a concept in Islamic law that refers to actions taken for the common good or the welfare of the community, even if not specifically mentioned in the Qur'an or Hadith. This principle asserts that public interest can be the basis for legal decisions to create justice and welfare for all (Al-Sayuti, 2004). Restrictions on the management of privately owned land are governed by various laws, such as the Basic Agrarian Law (UUPA) in Indonesia. Its purpose is to ensure the use of land according to its social function, prevent neglect, and encourage fair access to land. (Tiara Deasy Nurfitriani Sumarwan & Neng Dewi Himayasari, 2022)

These restrictions aim to prevent the concentration of land in the hands of a few, which can lead to social and economic inequality. From the perspective of maslahah mursalah,

restrictions on the management of private land are considered legal and recommended if they aim for the common good, such as land redistribution for small farmers or the construction of public facilities (Nasution, 1978). Proper implementation of this principle can help achieve public welfare goals and fair distribution (Abdurrohman, 2010). The need for land is found not only in the agricultural and residential sectors but also in the development of recreational complexes, office infrastructure, commercial forest plantations, factories, and others. (Hafidzi, 2018)

In Runding village, there are various plantations, mostly large papaya plantations. However, a farmer planted oil palm on 5 hectares of land located upstream of the village's water source. As oil palm plants require a lot of water, this caused water shortages for papaya farmers downstream, negatively impacting their harvests. Previously, papaya farmers could harvest 5 to 6.5 tons, but now it has decreased to 700 kg or sometimes only 500 kg. Therefore, papaya farmers felt disadvantaged and restricted the management of the land. The regulation governing property rights restrictions is Article 20 of the UUPA, which states that the nature of property rights has three aspects, one of which is the "full" right. (Mochammad Sahid et al., 2020)

This means that the right can be used for agricultural purposes and also for building construction. However, in exercising property rights over land, we must consider the social function of the land, meaning that its use should not cause harm to others. Proper implementation of the law in Islam aims to maintain social stability and make society more orderly. Efforts to build *maslahah al-ḍaruriyah* must meet three elements: *darūriyyah*, *qat'iyyah*, and *kulliyah* (Al-Ghazali & al-Mustafa, 2017). Restrictions on land management are closely related to *al-maslahah al-‘āmmah* and *al-maslahah al-khāssah*, so through this methodology, efforts to determine human welfare can be fulfilled. (Ma'arif, 2019)

Researchers have found previous studies discussing absentee land ownership from the perspective of *maqashid shariah* (Eka Rustiana, Yogyakarta 2020), aiming to understand absentee land ownership and specific provisions governing land control and its prohibition. Another study (Lutfhi Nurahmad Taufiq, Semarang 2023) discusses absentee land ownership from the perspective of UUPA No. 5 of 1960, aiming to analyze the legal status of absentee land inheritance objects and legal protection for heirs receiving absentee land rights. The difference between this research and previous studies lies in the research location, focusing on the perspective of *Maslahah Mursalah* on land ownership restrictions. (Furqon, 2014)

This research aligns with studies conducted by (Nurdin, 2020), exploring restrictions on the management of private land from the perspective of *maslahah mursalah*, highlighting zoning regulations and restrictions on land use changes as relevant policies. From the perspective of *maslahah mursalah*, these policies are valid if they aim to prevent harm and promote public welfare. Similarly, research by (Fajar, Nugraha, 2020) examines restrictions on the management of private land from a legal and social perspective, emphasizing the importance of consultation and community participation in policy-making. Finally, (Huda, 2020) focuses on the legal analysis of restrictions on the management of private land based on the principle of *maslahah mursalah*, emphasizing justice and balance between individual and public interests. (Agni & Adhim, 2023)

## II. METHOD

This research employs an empirical approach by examining the actual conditions in the community through fact-finding related to the studied issue (Benuf & Azhar, 2020). The living case approach is applied to investigate the legal facts in the community regarding the restrictions on managing private land in Runding Village, while the legislative approach is used to review the relevant regulations. The conceptual approach aims to understand the concepts of property rights and *Maslahah Mursalah* related to these restrictions. (RanaSyarif, 2020) This research is descriptive-analytical, with field data collected through observations and interviews, and property rights data obtained through document studies. The data is processed using qualitative methods and analyzed based on deductive reasoning (Benuf, Kornelius, & Azhar, Muhamad, 2020). Clarifications on the research design and methods of data collection

and analysis, including details on the application of the living case approach, will be explained further. The qualitative methods will be described in more detail. Thematic analysis and coding will be used as the primary qualitative techniques. Thematic analysis involves identifying patterns or themes within qualitative data, which provides a way to interpret the meaning of the data systematically. (Yuharnibar, 2021) Coding, which is a part of thematic analysis, involves categorizing segments of data with labels to summarize and interpret them. Given that this concept may not be universally understood, a clear and concise definition will be provided early in the methodology section. Thematic analysis is a method for identifying, analyzing, and reporting patterns within data. It relates to the restriction of private land management by uncovering the underlying themes and patterns in community responses and regulatory practices, which helps to understand the broader implications and context. These methods will be conducted through a series of planned observations and interviews. Specifically, approximately 20 observations of community practices and 15 in-depth interviews with stakeholders, including landowners, community leaders, and regulatory officials, will be conducted. This detailed approach ensures a comprehensive understanding of the legal and social dynamics at play. (Hendri & Andriyaldi, 2018).

### **III. RESULT AND DISCUSSION**

#### **1. Land Ownership Rights According to Legislation**

Land, being one of humanity's basic needs, plays a very important role. The agrarian life of the Indonesian people heavily depends on land. Land is the primary object needed for agricultural and plantation activities. Therefore, land is inseparable from human life as it fulfills all basic human needs and provides a place for people to live and make a living (Mariot P. Siahaan, Bea, 2015). In legal terms, land plays a significant role in human life as it determines the existence and continuity of legal relationships and actions, whether for individuals or other parties. To prevent land-related issues that could lead to conflicts of interest within society, regulation, control, and utilization of land—known as land law—are necessary. (Golap & Umpain, 2019) Land is one of Indonesia's fundamental assets, as the nation and its people live and develop on it. The Indonesian people view land as a crucial factor in enhancing agrarian productivity. The state regulates land matters as stipulated in Article 33, Paragraph (3) of the 1945 Constitution, which grants the state the authority to control land within its territory. This article states: (Golap & Umpain, 2019)

"The surface of the earth, water, and the natural resources contained therein are controlled by the state and used for the welfare of the people."

Article 33, Paragraph (3) explicitly explains that land ownership rights belong to all Indonesian people, while the state is only given the authority to control it. This means that the state holds power over or manages it, but ownership remains with the people.

There are several types of land rights, including Ownership Rights, Cultivation Rights, Building Rights, Usage Rights, Building Lease Rights, Land Clearing Rights, and Forest Product Collection Rights. (YUWANTI, 2020)

Based on ownership rights, there are several characteristics of ownership:

- a. Inheritance: Ownership rights can be inherited legally from the deceased landowner to their heirs.
- b. The Strongest: Ownership rights are the strongest compared to other land rights.
- c. Most Complete: Ownership rights can be used for agricultural and developmental purposes.

In exercising land ownership rights, the social function of land must be considered, ensuring that there is no harm to others, and land use should align with the condition and nature of the rights, balancing private and public interests, preserving soil fertility, and preventing damage.

## **2. Maslahah Mursalah**

Etimologically, the word *al-maṣlaḥah* (plural: *masāliḥ*) means something good, beneficial, and is the opposite of harm and damage. *Maṣlaḥah* sometimes refers to the pursuit of truth. The essence of *maṣlaḥah* is to create goodness and well-being in human life and to avoid things that could harm public life (Hasballah Thaib & Tajdid, 2020). The term *al-Maṣlaḥah* implies something very beneficial. Conversely, *al-Mafṣadah* refers to something harmful (Luis Ma'lūf, *al-Munjīd fi al-Lughah wa al-A'lām, Dār al-Masyriq*). Therefore, the original meaning of *maṣlaḥah* is to attract benefits or repel harm. (Asy-Syaikh al-'Allamah Muhammad bin Sholeh al-Utsamain, 2007)

According to al-Ghazālī, *maṣlaḥah* essentially means striving to achieve benefits and prevent harm. Achieving benefits is the goal of human welfare in meeting their needs. *Maṣlaḥah* refers to the preservation of *maqāṣid al-Syāri'ah* (the objectives of Sharia). *Maqāṣid al-Syāri'ah* aims to protect five fundamental principles (*al-Mabādi' al-Khams* or *al-Ḍarūriyyat al-Khams*): protecting religion, life, lineage, intellect, and wealth. Al-Ghazālī categorizes the preservation of these five principles as important, universal, and definitive principles. The validity of *maṣlaḥah* according to al-Ghazālī must meet several criteria:

- a. *Maṣlaḥah* must be definitive (*qat'iy*).
- b. *Maṣlaḥah* must be at the level of necessity (*ḍarūri*) or need (*hajī*) equivalent to *darūri*. *Taḥsīniyah* (enhancement) is not included in the category of comprehensive, definitive, and necessary law.
- c. *Maṣlaḥah* must be comprehensive, definitive, and necessary when related to life.

According to al-Ghazālī, *maṣlaḥah* is a valid argument, but if it stands alone as a method, it is still questionable (he calls it *al-Uṣūl al-Mawhumah*). Therefore, *maṣlaḥah* discussed by al-Ghazālī must refer back and be understood from Sharia texts or consensus (*ijma'*). Additionally, he emphasizes that *maṣlaḥah* that does not align with Sharia objectives should be rejected.

## **3. Indicators of Restrictions on Private Land Management by the Community in Runding Village**

Runding Village is one of the villages in Panyabungan Barat District, Mandailing Natal Regency, located on the border between Panyabungan Barat District and Huta Bargot District. Runding Village is the most distant village in Panyabungan Barat District, with an area of 2,582.87 hectares and a population of 350 households. Most of Runding Village's population are farmers. About 80% of the population are farmers, with 30% cultivating papaya, 10% managing oil palm, and 50% growing rice. The area of papaya farming in Runding Village is 10 hectares, located upstream of the village's water source, while the oil palm plantation covers 5 hectares. (Baaliy, 2010)

The COVID-19 pandemic was a peak period for papaya planting, which significantly impacted the village's economy. During the pandemic, the price of papaya was relatively high, with California papaya priced at IDR 3,400 per kg and local papaya at IDR 1,800 per kg. Papaya plants are quite sensitive to weather and soil conditions, affecting the color, taste, and growth of the fruit, leading to price fluctuations based on fruit quality. Late 2023 was the most challenging period for papaya farmers due to unpredictable weather causing papayas to be more susceptible to pests, and the fruit was not as sweet as before. As a result, papaya prices fell to IDR 1,800 per kg for California papaya and IDR 800 per kg for local papaya, with some harvests being discarded due to low market value. Economic competition and the struggle for survival among Runding Village residents became increasingly fierce. The declining papaya prices due to weather and pest attacks encouraged residents to switch to long-term crops such as oranges, avocados, and longans. Many continued papaya farming, but significant issues arose when a family in Runding Village converted their land into an oil palm plantation.

The cultivation of oil palms significantly affected soil quality, causing erosion that led to a decline in soil quality and productivity. Excessive use of chemicals further exacerbated the sensitivity of papaya plants. As a result, papaya farmers around the oil palm plantations felt

disadvantaged due to the negative impact on their agricultural land, leading to poor fruit quality and unstable harvests. (Kholil, 2000)

#### **4. Legal Analysis of Restrictions on Private Land Management by the Community from the Perspective of Maslahah Mursalah**

Islamic land law can be understood as Islamic law concerning land ownership (milkiyah), management (tasharuf), and distribution (tauzi). Land is an asset with a social function aimed at enhancing community welfare and meeting their needs and interests. Therefore, private ownership has a social function from an Islamic perspective. (Sani, 2023) Conversely, private ownership is a right respected and protected in Islam, except for limitations for personal or public interests. Thus, ownership serves not only group interests but also has personal attributes. Although Islam does not prohibit private ownership absolutely, it does not permit unlimited ownership. Allah SWT says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ ۚ وَلَا تَقْتُلُوا  
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"O you who have believed, do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]." (Q.S An-Nisa: 29)

In Islam, there is the concept of *maslahah mursalah*, which aims to achieve benefits and prevent harm. *Maslahah* involves the preservation of *maqāṣid al-Syārī'ah*. *Maqāṣid al-Syārī'ah* means protecting five fundamental principles (*al-Mabādi` al-Khams* or *al-Ḍarūriyyat al-Khams*):

The fulfillment of essential needs from the perspective of Muslim scholars includes five essential needs (As-Syatibi, n.d.):

- a. *Hifz al-Dien* (preservation of religion) includes faith, prayer, zakat, fasting, pilgrimage, justice, and jihad.
- b. *Hifz an-Nafs* (preservation of life) includes food, clothing, shelter, health, road facilities, transportation, security, employment, and social services.
- c. *Hifz al-Aql* (preservation of intellect) includes education, media, knowledge, and research.
- d. *Hifz an-Nasl* (preservation of lineage) includes marriage institutions, services for pregnant women, infants, orphans, etc.
- e. *Hifz al-Maal* (preservation of wealth) includes finance, regulation, business transactions, markets, investment facilities, awareness of halal and good business, law enforcement, and supervision.

These five needs are crucial for human existence. Allah commands efforts to ensure their existence and perfection. Conversely, Allah forbids actions that.

#### **IV. CONCLUSION**

Based on the research findings, it can be concluded that the restrictions on the management of private land are regulated by Article 20 of the Basic Agrarian Law (UUPA), which emphasizes the importance of the social function of land and the need to maintain a balance between private and public interests, as well as proper maintenance to improve its fertility and prevent damage. In the context of *Maslahah Mursalah*, these restrictions aim to protect life (*Hifz al-Nafs*) and property (*Hifz al-Mal*). Therefore, palm oil farmers are advised to build an irrigation system to ensure water flow to the papaya plantations, which will enhance the quality of the fruit, maintain its color and taste, and prevent conflicts within the community in Runding Village.

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