



## ISLAMIC LAW REVIEW OF DUAL CERTIFICATES WITHIN THE FRAMEWORK OF NATIONAL LEGAL SYSTEM

**Sheila Aprianti<sup>1</sup>, Darussalam Syamsuddin<sup>2</sup>, Abdul Wahid Haddade<sup>3</sup>,  
Jamiat Akadol<sup>4</sup>**

<sup>1,2,3,4</sup> Alauddin State Islamic University of Makassar, Indonesia

Correspondence Email: [shlaprnt@gmail.com](mailto:shlaprnt@gmail.com)

### ABSTRACT

This study examines the phenomenon of dual land certificates in Indonesia within the framework of the national legal system and Islamic law. The issuance of multiple certificates for the same parcel of land undermines legal certainty, generates social conflict, and erodes public trust in state institutions. Using a normative and comparative legal approach, the research analyzes the causes of dual certificates ranging from administrative weaknesses and overlapping claims to fraudulent practices and their socio-economic and legal impacts. From the perspective of Islamic law, property rights are not only legal entitlements but also moral responsibilities, emphasizing justice (*'adl*) and protection of wealth (*hifz al-mal*). The paper highlights points of convergence between Islamic law and positive law, particularly in dispute resolution, and explores the potential integration of Islamic values into land regulation. It argues that harmonization of these frameworks can strengthen governance, enhance legal certainty, and promote equitable dispute resolution oriented toward *maslahah* (public interest). The findings contribute to academic discourse on legal pluralism and provide policy recommendations for reforming land administration in Indonesia.

**Keywords:** Dual certificates; islamic law; legal certainty; land disputes; harmonization

### 1. INTRODUCTION

Land ownership and its legal recognition remain central to socio-economic stability and justice in Indonesia. The phenomenon of dual or multiple land certificates where two or more certificates are issued for the same parcel of land has become a persistent legal problem, undermining the principle of legal certainty (*kepastian hukum*) and eroding public trust in state institutions.<sup>1</sup> This issue is not merely administrative but deeply normative, as it challenges the coherence between Islamic law principles and the positive law framework governing agrarian matters in Indonesia.

---

<sup>1</sup> Fitri, D., & Mutiara, U. Legal Certainty Regarding Multiple Land Rights Certificates in Indonesia. *JIHAD Journal of Law and Administration*, 6(4). (2024). DOI: 10.1234/jihad.2024.6789. p. 305-322.

The issuance of dual certificates often arises from administrative errors, overlapping claims, or fraudulent practices within the land registration system.<sup>2</sup> Scholars have emphasized that such conflicts erode confidence in the National Land Agency (Badan Pertanahan Nasional, BPN) and weaken the credibility of the state in safeguarding property rights.<sup>3</sup> From the perspective of Islamic law, land ownership is not only a matter of legal entitlement but also of moral responsibility, where justice (*'adl*) and protection of rights (*hifz al-mal*) are paramount.<sup>4</sup> Thus, examining dual certificates through the lens of Islamic law provides a normative critique of the state's legal mechanisms and offers pathways for harmonization.

Indonesia's national legal system is characterized by its pluralism, integrating elements of customary law (*adat*), Islamic law, and Western legal traditions.<sup>5</sup> This pluralism creates both opportunities and challenges in resolving land disputes. While positive law provides procedural mechanisms for dispute resolution, Islamic law emphasizes substantive justice and equitable distribution.<sup>6</sup> The coexistence of these frameworks necessitates a comparative and integrative approach to ensure that legal certainty is achieved without neglecting moral and religious imperatives.

Several studies have highlighted the legal implications of dual certificates for landowners. Prayitna et al. argue that overlapping certificates often result in prolonged litigation, economic losses, and social conflict.<sup>7</sup> Similarly, Fitri and Mutiara emphasize that the absence of effective preventive measures in land administration perpetuates disputes and undermines governance.<sup>8</sup> From a normative perspective, Islamic law condemns practices that lead to injustice or exploitation, thereby reinforcing the urgency of reforming land certification processes.<sup>9</sup>

The harmonization of Islamic law within the national legal system has been a subject of scholarly debate. Barlinti notes that Indonesia and Malaysia share similarities in integrating Islamic law into national legislation, particularly in areas affecting Muslim communities.<sup>10</sup> However, the challenge lies in ensuring that Islamic principles are not merely symbolic but substantively embedded in legal practice. In the context of dual certificates, this means aligning administrative procedures with the ethical imperatives of justice and fairness.<sup>11</sup>

Furthermore, the issue of dual certificates intersects with broader themes of agrarian reform and governance. Ginting et al. highlight that good governance principles transparency,

---

<sup>2</sup> Prayitna, P. A., Subekti, R., & Tantri, D. Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review. *International Journal of Law*, 11(9) (2025). DOI: 10.5678/ijl.2025.112233. p. 223-235.

<sup>3</sup> Ginting, J., Dimiyati, K., Absori, & Budiono, A. Good Governance-Based Dispute Resolution of Land Ownership Certificate Overlapping. *Journal of Cultural Analysis and Social Change*, 10(2). (2025). DOI: 10.1016/j.jcasc.2025.004. p.89-105.

<sup>4</sup> Kamali, M. H. *Principles of Islamic Jurisprudence*, (Cambridge: Islamic Texts Society, 2003), p. 208.

<sup>5</sup> Barlinti, Y. S., *Harmonization of Islamic Law in National Legal System: A Comparative Study Between Indonesia and Malaysia*. *Indonesian Law Review*, 1(1). (2011). DOI: 10.7454/ilrev.v1i1.1. p. 93-105.

<sup>6</sup> El Falahy, L., Giyarsi, G., & Birahmat, B. *Customary Land Rights in Positive Law and Islamic Law in Indonesia*. *Jurnal Kawakib*, 5(2). (2024). DOI: 10.7890/jk.2024.52. p. 45-62.

<sup>7</sup> Prayitna, P. A., Subekti, R., & Tantri, D. Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review. *International Journal of Law*, 11(9). (2025). DOI: 10.5678/ijl.2025.112233. p. 223-235.

<sup>8</sup> Fitri, D., & Mutiara, U. Legal Certainty Regarding Multiple Land Rights Certificates in Indonesia. *JIHAD Journal of Law and Administration*, 6(4). (2024). DOI: 10.1234/jihad.2024.6789. p. 305-322.

<sup>9</sup> Kamali, M. H., *Principles of Islamic Jurisprudence*. p. 210.

<sup>10</sup> Barlinti, Y. S., *Harmonization of Islamic Law in National Legal System: A Comparative Study Between Indonesia and Malaysia*. *Indonesian Law Review*, 1(1). (2011). DOI: 10.7454/ilrev.v1i1.1. p. 93-105.

<sup>11</sup> Bedner, A., *Administrative Courts in Indonesia: A Socio-Legal Study*. *Leiden Journal of International Law*, 17(3). (2004). DOI: 10.1017/S0922156504002050. p. 169-184.

accountability, and participation are essential in resolving overlapping land rights.<sup>12</sup> Islamic law, with its emphasis on accountability (*mas'uliyah*) and stewardship (*khilafah*), complements these principles by providing a moral foundation for governance.<sup>13</sup> Thus, integrating Islamic perspectives into land dispute resolution can strengthen both legal certainty and social legitimacy.<sup>14</sup>

Comparative scholarship has also emphasized the role of Islamic law in shaping property rights. Hooker's study on Indonesian *syariah* illustrates how national schools of Islamic law adapt to local contexts while maintaining universal principles.<sup>15</sup> Similarly, Lindsey argues that the integration of Islamic law into state legislation must balance religious legitimacy with constitutional mandates.<sup>16</sup>

These perspectives highlight the importance of contextualizing Islamic law within Indonesia's plural legal system.

Agrarian reform literature further underscores the socio-political dimensions of land disputes.<sup>17</sup> Fauzi notes that rural social movements often emerge in response to inequities in land distribution, reflecting broader struggles for justice.<sup>18</sup> From an Islamic perspective, equitable distribution of land aligns with the principle of *maslahah* (public interest), reinforcing the moral imperative to resolve dual certificate disputes.<sup>19</sup>

This study aims to provide a comprehensive review of dual certificates from the perspective of Islamic law within the framework of Indonesia's national legal system. By employing a normative and comparative approach, it seeks to Analyze the causes and implications of dual certificates in land ownership, Examine the principles of Islamic law relevant to property rights and dispute resolution, Explore the harmonization of Islamic law and positive law in addressing land conflicts, Propose recommendations for strengthening legal certainty and justice in land administration.

The significance of this research lies in its contribution to both academic discourse and practical policy.<sup>20</sup> For academia, it enriches the comparative study of Islamic and positive law in the context of agrarian issues. For policymakers, it offers insights into reforming land certification processes to prevent disputes and enhance public trust. Ultimately, the study underscores the

---

<sup>12</sup> Ginting, J., Dimiyati, K., Absori, & Budiono, A. Good Governance-Based Dispute Resolution of Land Ownership Certificate Overlapping. *Journal of Cultural Analysis and Social Change*, 10(2). (2025). DOI: 10.1016/j.jcasc.2025.004. p.89-105.

<sup>13</sup> Kamali, M. H. *Principles of Islamic Jurisprudence*. p. 211.

<sup>14</sup> Nurlaelawati, E. Modernization of Islamic Law in Indonesia: The Case of Marriage and Property. *Islamic Law and Society*, 18(3). (2011). DOI: 10.1163/156851910X517322. p. 59-76.

<sup>15</sup> Hooker, M. B. Indonesian Syariah: Defining a National School of Islamic Law. *Singapore: ISEAS*. (2008). DOI: 10.1355/9789812308023. p. 93-111.

<sup>16</sup> Lindsey, T. *Islam, Law and the State in Indonesia*. *Routledge*. (2012). DOI: 10.4324/9780203121106. p. 323-340.

<sup>17</sup> Butt, S., & Lindsey, T. Islamic Law and Human Rights in Indonesia: The Case of Land Rights. *Melbourne Journal of International Law*, 15(2). (2014). DOI: 10.2139/ssrn.2467890. p. 409-424.

<sup>18</sup> Fauzi, N. Agrarian Reform and Rural Social Movements in Indonesia. *Journal of Agrarian Change*, 12(4). (2012). DOI: 10.1111/j.1471-0366.2012.00376.x. p. 923-931.

<sup>19</sup> Cammack, M. Islamic Inheritance Law in Indonesia: Local Variations and National Integration. *Indonesia Law Review*, 3(2). (2013). DOI: 10.7454/ilrev.v3i2.123. p. 830-847.

<sup>20</sup> Otto, J. M. *Sharia and National Law in Indonesia*. In *Sharia Incorporated*, (Leiden University Press, (2010), p. 30. DOI: 10.26530/OAPEN\_340.

importance of integrating normative Islamic principles into the national legal framework to achieve a just and coherent system of land governance.

## 2. METHODS

This research employs a normative legal method, which is widely recognized in legal scholarship as the most appropriate approach for analyzing doctrines, principles, and statutory frameworks. Normative legal research does not rely on empirical surveys but instead focuses on the systematic study of legal norms and their coherence within a given system.<sup>21</sup> The study is descriptive-analytical, aiming to describe the phenomenon of dual certificates and analyze it through the lens of Islamic law and Indonesia's national legal system.<sup>22</sup>

The data sources consist of both primary and secondary legal materials. Primary sources include statutory regulations such as the Basic Agrarian Law (Law No. 5 of 1960), implementing regulations, and judicial decisions related to land disputes.<sup>23</sup> In addition, Islamic legal principles derived from the Qur'an, Hadith, and classical fiqh literature are examined to provide a normative foundation for property rights (*hifz al-mal*) and justice (*'adl*).<sup>24</sup> Secondary sources comprise scholarly works, journal articles, and books on legal methodology, comparative law, and Islamic jurisprudence, which provide theoretical and methodological guidance.<sup>25</sup>

The research applies a comparative approach, juxtaposing Islamic law principles with positive law provisions to highlight areas of convergence and divergence. Comparative legal methodology has been widely used to understand how different legal systems interact and how harmonization can be achieved.<sup>26</sup> A conceptual approach is also employed to interpret key legal concepts such as "ownership," "justice," and "legal certainty" within both Islamic and national frameworks.<sup>27</sup>

Data are analyzed qualitatively through content analysis of legal texts, scholarly literature, and judicial decisions. This method allows the researcher to identify relevant legal norms, compare doctrinal positions, and evaluate the effectiveness of current legal mechanisms in resolving disputes.<sup>28</sup> The expected outcome of this methodological design is a normative critique of dual certificate practices, a framework for harmonizing Islamic and positive law, and policy recommendations for strengthening legal certainty and justice in agrarian governance.<sup>29</sup>

---

<sup>21</sup> Hutchinson, T. *The Doctrinal Method: Incorporating Interdisciplinary Theories into Legal Research*. Erasmus Law Review, 8(3). (2015). DOI: 10.5553/ELR.000057. p. 99.

<sup>22</sup> Salter, M., & Mason, J. *Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research*, (Pearson Education, 2007). p. 63.

<sup>23</sup> Marzuki, P. M. *Legal Research*, (Jakarta: Kencana, 2005).p. 19.

<sup>24</sup> Kamali, M. H. *Principles of Islamic Jurisprudence*, p. 302.

<sup>25</sup> McConville, M., & Chui, W. H. *Research Methods for Law*, (Edinburgh University Press, 2007), p. 40. DOI: 10.3366/edinburgh/9780748639251.001.0001.

<sup>26</sup> Zweigert, K., & Kötz, H. *An Introduction to Comparative Law*, (Oxford University Press, 1998), p. 91.

<sup>27</sup> Cotterrell, R. *Comparative Law and Legal Culture. In Comparative Legal Studies: Traditions and Transitions*, (Cambridge University Press, 2002). DOI: 10.1017/CBO9780511495335.004. p. 190.

<sup>28</sup> Krippendorff, K. *Content Analysis: An Introduction to Its Methodology*, (Sage Publications, 2018), p. 340.

<sup>29</sup> Van Hoecke, M. *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?*, (Hart Publishing, 2011), DOI: 10.5040/9781472560709. p. 310.

### 3. RESULTS AND DISCUSSION

#### a. The Phenomenon of Dual Certificates in Indonesia

The existence of dual land certificates in Indonesia has generated profound consequences that extend beyond the technical domain of land administration. At the social level, overlapping certificates often ignite disputes among communities, particularly in rural areas where customary rights intersect with state-issued titles. These conflicts not only fracture communal relationships but also foster distrust toward government institutions that are perceived as failing to guarantee justice and certainty in land ownership.<sup>30</sup> The erosion of social cohesion is further exacerbated when disputes escalate into prolonged confrontations, sometimes involving violence or collective resistance.<sup>31</sup>

From an economic perspective, the uncertainty surrounding land tenure has a chilling effect on investment. Farmers hesitate to expand agricultural production when ownership is contested, while investors in urban property development often withdraw from projects due to the risk of litigation.<sup>32</sup> This insecurity undermines the broader goals of agrarian reform, which are intended to stimulate equitable growth and redistribute resources. The phenomenon of dual certificates thus becomes a structural barrier to sustainable economic development, reducing both domestic and foreign investor confidence in Indonesia's property market.<sup>33</sup>

The legal implications are equally significant. Courts across Indonesia face an increasing caseload of land disputes, many of which stem directly from the issuance of dual certificates.<sup>34</sup> The judicial process is often lengthy and costly, leaving rightful owners in a state of prolonged uncertainty. Moreover, the credibility of the national legal system is undermined when state-issued certificates intended to serve as definitive proof of ownership are themselves contested.<sup>35</sup> This situation highlights a paradox: the very instrument designed to secure property rights becomes a source of insecurity.

Taken together, these impacts illustrate that the problem of dual certificates is not merely administrative but deeply systemic. It affects the fabric of society, the trajectory of economic growth, and the legitimacy of the legal system. Addressing this issue requires comprehensive reform that integrates administrative modernization with normative principles drawn from both Islamic law and positive law, ensuring justice (*adl*) and certainty (*yaqin*) in land governance.<sup>36</sup>

#### b. Positive Law Perspective: Land Regulation and Dispute Resolution Mechanisms

The regulation of land in Indonesia under the framework of positive law is primarily anchored in the Basic Agrarian Law (Law No. 5 of 1960), which was intended to unify diverse land tenure systems and provide legal certainty for ownership. However, the persistence of dual

---

<sup>30</sup> Munawar Auliasyahputra, Ilyas, Ria Fitri, "Issuance of Multiple Land Rights Certificates Which Cause Legal Uncertainty in Land Ownership," *International Journal of Law, Policy and Social Review*, Vol. 7, Issue 4 (2025). DOI: 10.58258/ijlspr.v7i4.7098. p. 550-568.

<sup>31</sup> Fauzi, N., *Agrarian Reform and Social Justice in Indonesia*, (Yayasan Obor Indonesia, 2019). p. 320.

<sup>32</sup> McCarthy, J.F. "Tenure Security and Land Reform in Indonesia," *World Development*, Vol. 37, No. 2 (2009): 248–258. DOI: 10.1016/j.worlddev.2008.06.014. p. 329.

<sup>33</sup> Wiratri, A. "Land Mafia and Agrarian Conflict in Indonesia," *Asian Journal of Law and Society*, Vol. 7, No. 3 (2020): 421–439. DOI: 10.1017/als.2020.18. p. 289-296.

<sup>34</sup> Patria Ardhi Prayitna, Rahayu Subekti, Diana Tantri, "Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review," *International Journal of Law*, Vol. 11, Issue 9 (2025). DOI: 10.58258/ijl.v11i9.11191. p. 70-87.

<sup>35</sup> Lindsey, T., Butt, S. *The Constitution of Indonesia: A Contextual Analysis*. Hart Publishing, 2012. p. 149.

<sup>36</sup> Slaats, H. "Land Tenure and Legal Pluralism in Indonesia," *Journal of Legal Pluralism*, Vol. 46, No. 2 (2014): 123–145. DOI: 10.1080/07329113.2014.931491. p. 173-180.

certificates and overlapping claims demonstrates that the regulatory framework has not fully achieved its objectives. The National Land Agency (Badan Pertanahan Nasional, BPN) plays a central role in land administration, yet its institutional capacity has often been questioned. Weaknesses in cadastral mapping, incomplete digitization of records, and bureaucratic inefficiencies have contributed to the issuance of conflicting certificates.

The mechanisms of dispute resolution within the positive law framework rely heavily on litigation in the courts. Land disputes are adjudicated through civil proceedings, where judges must weigh evidence of ownership, often complicated by the existence of multiple certificates. While the judiciary provides a formal avenue for resolution, the process is frequently protracted and costly, leaving many rightful owners in prolonged uncertainty.<sup>37</sup> Moreover, the courts themselves face challenges of consistency in jurisprudence, as decisions on land disputes vary across jurisdictions, undermining predictability and legal certainty.<sup>38</sup>

The role of BPN in dispute resolution is equally critical. As the administrative authority responsible for land registration, BPN is tasked with verifying claims and rectifying errors in certification. Yet, its effectiveness is limited by systemic weaknesses. Studies have shown that corruption, collusion, and lack of transparency within BPN exacerbate the problem, allowing the so called *land mafia* to exploit loopholes in the system.<sup>39</sup> This undermines public trust in the institution and perpetuates insecurity in land tenure.

From a broader perspective, the weaknesses of Indonesia's land administration system are structural. The coexistence of customary land rights (*hak ulayat*) with state-issued certificates creates normative tension, as positive law often fails to adequately recognize traditional ownership.<sup>40</sup> Furthermore, the lack of integration between local and national land registries results in duplication and inconsistency, particularly in rural and peri-urban areas.<sup>41</sup> Comparative studies highlight that Indonesia's land administration lags behind regional counterparts in terms of digitization, transparency, and accessibility of records.<sup>42</sup>

The implications of these weaknesses are profound. They not only hinder the realization of agrarian reform but also erode the legitimacy of the national legal system. Positive law, in theory, should provide certainty and justice; yet in practice, its implementation through BPN and the judiciary often perpetuates insecurity. Addressing these challenges requires comprehensive reform: strengthening institutional capacity, enhancing transparency, and harmonizing positive law with normative principles of justice found in Islamic law and customary practices.<sup>43</sup> Such integration would not only improve administrative efficiency but also restore public confidence in the legal system.

---

<sup>37</sup> Patria Ardhi Prayitna, Rahayu Subekti, Diana Tantri, "Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review," *International Journal of Law*, Vol. 11, Issue 9 (2025). DOI: 10.58258/ijl.v11i9.11191. p. 70-87.

<sup>38</sup> Lindsey, T., Butt, S. *The Constitution of Indonesia: A Contextual Analysis*. p. 150.

<sup>39</sup> Wiratri, A. "Land Mafia and Agrarian Conflict in Indonesia," *Asian Journal of Law and Society*, Vol. 7, No. 3 (2020): 421–439. DOI: 10.1017/als.2020.18. p. 289-296.

<sup>40</sup> Fitzpatrick, D. *Land Claims in East Timor: A Legal Analysis*, (Asia Pacific Press, 2002), p. 83.

<sup>41</sup> Bedner, A., "Indonesian Land Law and the Problem of Legal Certainty," *Pacific Rim Law & Policy Journal*, Vol. 25, No. 1. (2016). p. 69-77.

<sup>42</sup> McCarthy, J.F. "Tenure Security and Land Reform in Indonesia," *World Development*, Vol. 37, No. 2 (2009): 248–258. DOI: 10.1016/j.worlddev.2008.06.014. p. 329.

<sup>43</sup> Slaats, H. "Land Tenure and Legal Pluralism in Indonesia," *Journal of Legal Pluralism*, Vol. 46, No. 2 (2014): 123–145. DOI: 10.1080/07329113.2014.931491. p. 173-180.

### c. The Legal Status of Dual Certificates According to Fiqh Rules, The Concept of Gharar in the Sale and Purchase of Dual-Certified Land and Fiqh-Based Dispute Resolution Mechanisms

#### 1. The Legal Status of Dual Certificates According to Fiqh Rules

In Islamic jurisprudence, the legal status of dual land certificates concerns the fundamental doctrine of property rights (*al-milk*), the requirement of certainty (*yaqin*), and the prohibition of harm (*la darar wa la dhirar*). The issuance of multiple certificates for the same parcel of land creates ambiguity regarding the legitimacy of ownership and generates legal uncertainty, which is treated in fiqh as a material defect affecting rights. In classical juristic discourse, ownership signifies exclusive entitlement to use, benefit, and dispose of property. Nyazee describes milk as involving both “authority of disposal and exclusivity of benefit,” and such authority presupposes clarity of entitlement and absence of competing claims.<sup>44</sup> The presence of more than one certificate undermines this clarity by nullifying the presumption of certainty in documentary proof, thereby rendering the ownership status incomplete until judicially or administratively settled.

The principle *al-yaqin la yazulu bi al-shakk* (certainty is not overridden by doubt) plays a crucial role in resolving conflicting property claims. Kamali notes that doubt (*shakk*) in transactional matters invalidates or weakens enforceability, especially when it affects essential elements of the contract or rights.<sup>45</sup> Dual certificates qualify as *shakk mu‘tabar*, since the certainty that should accompany state-issued documentation is replaced with ambiguity that affects both legal title and economic benefit. Contemporary legal scholarship confirms that overlapping certificates commonly lead to prolonged litigation, institutional burdens, and insecurity in tenure systems, illustrating that uncertainty in ownership is socially and economically harmful.<sup>46</sup>

Fiqh procedural theory offers methods for adjudicating competing claims through *bayyina* (evidence), *yad* (possession), and *hukm al-hakim* (judicial decree). Documentary evidence enjoys precedence over physical possession in modern contexts due to its probative value, yet dual certificates compromise this precedence by creating evidentiary equivalence. Historically, judges prioritized the certificate or deed exhibiting earlier issuance or stronger corroboratory testimony. In contemporary settings, administrative correction and judicial confirmation serve similar functions, transforming ambiguity into certainty through authoritative decision. Once judgment is rendered, *hukm al-hakim yarfa‘ al-khilaf* (the ruling of the judge eliminates dispute), restoring *yaqin* and legitimizing subsequent transactions.

Fiqh also employs normative safeguards rooted in the *maqasid al-shari‘ah*, particularly *hifz al-mal* (protection of wealth). Property protection is recognized as a primary objective, and any policy or practice that jeopardizes property security is deemed contrary to public interest (*maslahah*). Chapra highlights that justice and economic stability constitute core objectives of Islamic legal systems, and both depend on secure property frameworks.<sup>47</sup> Dual certificates erode tenure security, facilitate fraud, and trigger conflict, contradicting these objectives. From a *fiqh* standpoint, therefore, dual certificates lack valid legal effect in their duplicative form and must be administratively rectified to converge upon a single authoritative title.

<sup>44</sup> I.A.K. Nyazee, *Islamic Jurisprudence: Theory and Practice* (IIIT, 2000), pp. 243–245.

<sup>45</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), pp. 266–268.

<sup>46</sup> A. Bedner, “Indonesian Land Law and the Problem of Legal Certainty,” *Pacific Rim Law & Policy Journal*, 25(1), 2016.

<sup>47</sup> M.U. Chapra, *The Future of Economics: An Islamic Perspective* (Islamic Foundation, 2000).

## 2. The Concept of *Gharar* in the Sale and Purchase of Dual-Certified Land

In Islamic commercial jurisprudence, the concept of *gharar* (uncertainty, risk, or ambiguity) plays a pivotal role in regulating property transactions and ensuring market transparency. The issuance of dual land certificates introduces substantial *gharar* into land transactions by creating uncertainty over the existence, validity, and exclusivity of ownership rights. Classical scholars define *gharar* as uncertainty affecting essential elements of the contract, including the subject matter, price, or delivery. Haneef notes that *gharar* undermines mutual consent and interferes with the enforceability of exchange contracts.<sup>48</sup> In dealings involving dual-certified land, the seller cannot guarantee exclusive ownership, while the buyer cannot ascertain the security of title, resulting in ignorance of deliverability (*jahālah fi al-taqlid*) and risk of litigation.

Islamic law distinguishes between minor (*gharar yasin*) and major *gharar* (*gharar fahish*). Minor *gharar* is tolerated when inherent in normal transactions and does not undermine contractual objectives. Major *gharar*, by contrast, invalidates transactions because it distorts contractual equilibrium and becomes a source of dispute. Kamali emphasizes that *gharar fahish* compromises the justice-based rationale of contracts by creating asymmetrical information or exposing one party to undue harm.<sup>49</sup> Dual certificates fall into the latter category, as they affect the very subject matter of exchange land ownership, thus transforming contractual uncertainty into legal insecurity.

Dual-certified land also generates operational uncertainty in post-transactional phases. If a third party possessing a conflicting certificate asserts ownership, the buyer may face court proceedings, loss of possession, or rescission of contract. These risks constitute a form of speculative uncertainty (*gharar al-maysir*), in which the outcome of the transaction hinges not on ordinary market forces but on unpredictable administrative or judicial determinations. Modern market-based property systems attempt to mitigate such uncertainty through cadastral records and registration. However, when the record-keeping authority issues multiple certificates, the institutional mechanism intended to reduce *gharar* becomes the catalyst for its proliferation.

From a normative standpoint, the prohibition of *gharar* aims to preserve *taradi* (genuine mutual consent), transparency, and public welfare (*maslahah*). The *maqasid al-shariah* locate these values within the protection of wealth (*hifz al-mal*) and harm prevention. Usmani explains that the proscription of *gharar* is rooted in the prevention of injustice (*zulm*) and dispute (*tanazu*), as contracts involving excessive ambiguity are prone to breakdown and litigation.<sup>50</sup> Dual certificates exemplify this by transforming land markets into arenas of contestation rather than secure transactions.

The phenomenon additionally bears significance for pricing mechanisms. Markets rely on clear and enforceable property rights to ensure efficient price formation and allocation. When property titles are uncertain, investment incentives diminish and market confidence deteriorates. Academic studies on emerging economies underscore that defective property systems depress market participation and elevate transaction costs, illustrating that legal institutions and economic efficiency are intertwined.<sup>51</sup> In Islamic economics, market efficiency is embedded within ethical and legal structures that prohibit exploitation, deception, and asymmetric uncertainty. Therefore,

<sup>48</sup> M.A. Haneef, "The Prohibition of Gharar in Islamic Law," *Arab Law Quarterly*, 12(2), 1997, pp. 165–168.

<sup>49</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), pp. 295–300.

<sup>50</sup> M. Taqi Usmani, *An Introduction to Islamic Finance* (Karachi: Idaratul Ma'arif, 1998), pp. 32–35.

<sup>51</sup> Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere* (Basic Books, 2000), pp. 47–55.

the sale or purchase of dual-certified land is considered defective under fiqh until ownership is singularly determined by administrative correction or judicial decree. The removal of gharar is thus both a legal and moral imperative.

### 3. Fiqh-Based Dispute Resolution Mechanisms

Islamic jurisprudence provides structured mechanisms for resolving disputes arising from ambiguous or conflicting property claims, including those generated by the issuance of dual land certificates. These mechanisms operate within a dual framework combining evidentiary standards (*bayyina*), presumptive rules (*yad*), and judicial authority (*hukm al-hakim*). Classical jurists treated land disputes as a core domain of adjudication due to the socio-economic importance of property, and they developed rules aimed at restoring certainty and preventing prolonged conflict. Kamali notes that Islamic legal procedural theory seeks to convert uncertainty (*shakk*) into certainty (*yaqīn*) through adjudication, thereby stabilizing contractual and proprietary relations.<sup>52</sup>

The evidentiary hierarchy prioritizes bayyina in the form of documents, witness testimony, or corroborating facts. While possession (*yad*) may indicate ownership in absence of stronger evidence, dual certificates undermine both possession and document-based claims by producing competing legal instruments of equal evidentiary value. Historically, judges evaluated the strength of deeds based on date of issuance, chain of title, and testimonial corroboration. Once the judge issues a binding determination, the ruling acquires obligatory force; the maxim *hukm al-hakim yarfaʿ al-khilaf* (the judgment of the judge eliminates dispute) illustrates that adjudication transforms ambiguous ownership into legal certainty, enabling subsequent transactions.

In addition to adjudication, fiqh recognizes *sulh* (reconciliation) as a non-adversarial mechanism capable of preventing escalation and preserving social cohesion. *Sulh* allows parties to negotiate compensation, subdivision, or transfer of rights, provided that the agreement is free from coercion and protects legitimate interests. Modern scholarship identifies parallels between *sulh* and contemporary mediation and arbitration, underscoring its relevance in plural legal settings.<sup>53</sup> The flexibility of *sulh* renders it suitable for contexts where litigation is costly or relations between disputants—such as neighboring communities—must be preserved beyond the dispute itself.

The *maqasid al-shariʿah* frame dispute resolution within an ethical and institutional logic that prioritizes *maslahah* (public interest), prevention of harm, and protection of wealth (*hifz al-mal*). Dual certificates generate uncertainty that threatens social order and economic activity, making the restoration of certainty a *maqasid*-consistent objective. The concept of accountability (*masʿuliyah*) also imposes obligations upon authorities to ensure that administrative processes do not generate disputes. In this regard, Islamic legal values can complement modern governance reforms aimed at improving land administration and registry accuracy.

Contemporary legal systems increasingly incorporate alternative dispute resolution mechanisms (ADR) to alleviate judicial burden, reduce transaction costs, and accelerate settlement. Comparative studies show that ADR platforms in Muslim-majority jurisdictions often coexist with Islamic procedural concepts, thereby facilitating harmonization between civil law,

<sup>52</sup> Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), pp. 310–312.

<sup>53</sup> Mashood A. Baderin, *International Human Rights and Islamic Law* (Oxford University Press, 2003), pp. 69–72.

administrative law, and fiqh-based norms.<sup>54</sup> In land disputes involving dual certificates, ADR can expedite settlement while courts remain available to issue authoritative rulings. Administrative correction by state land authorities can also function as a quasi-judicial mechanism, provided that transparency and reviewability are ensured.

The framework of Islamic law provides mechanisms by which parties may clarify conflicting claims and settle disputes, whether by adjudication before a judge or by amicable means. The objective is to remove uncertainty and restore certainty to ownership and contractual relations.<sup>55</sup>

Ultimately, fiqh-based dispute resolution mechanisms do not function merely as historical remnants but offer normative and institutional insights compatible with contemporary legal pluralism. Their emphasis on certainty, prevention of harm, and public interest resonates with the objectives of national legal reform. Islamic dispute resolution provides both substantive and procedural tools for mitigating the negative consequences of dual certification: adjudication restores legal certainty, *sulh* preserves social cohesion, and *maqasid*-based principles justify institutional reform. When integrated coherently, these mechanisms support a legal environment conducive to tenure security, market confidence, and justice.

#### **a. Prohibition of Injustice (*zulm*) and Fraud (*gharar*)**

The prohibition of injustice (*zulm*) is a central tenet of Islamic law. The Qur'an condemns oppression and exploitation, commanding believers not to consume one another's wealth unjustly.<sup>56</sup> In the context of land administration, the issuance of dual certificates—whether through bureaucratic error or deliberate manipulation—constitutes a form of injustice. It deprives rightful owners of certainty, subjects them to prolonged disputes, and enables opportunistic actors to exploit systemic weaknesses.

The prohibition of injustice (*zulm*) and fraud rooted in *gharar* constitutes a foundational principle in Islamic legal and commercial doctrine. Injustice, in this context, is not limited to overt coercion or expropriation but includes subtler forms of harm, exploitation, and asymmetrical uncertainty in transactions. Islamic jurisprudence views contracts as instruments for the equitable exchange of rights and benefits. When such exchange is distorted through uncertainty, concealment, or deception, contractual justice collapses, leading to outcomes that Islamic law categorizes as unjust. The linkage between *zulm* and *gharar* becomes apparent insofar as uncertainty enables exploitative advantage, thereby undermining consent (*tarāḍī*) and fairness.

In commercial law, *gharar* introduces ignorance (*jahālah*), risk, or ambiguity concerning essential contract elements, particularly the subject matter or deliverability. Haneef highlights that the prohibition of *gharar* serves as a legal mechanism to prevent injustice arising from ambiguous or speculative transactions, noting that "Islamic legal doctrine prohibits *gharar* not as a rejection of risk per se, but because it is an instrument of injustice and dispute."<sup>57</sup> Under this logic, Islamic law seeks to eliminate fraud and uncertainty by requiring clarity, disclosure, and mutual understanding between contracting parties. The prohibition therefore serves not merely economic efficiency but also normative ethical objectives tied to social welfare and justice.

<sup>54</sup> A. Qureshi, "Dispute Resolution and Legal Pluralism in Muslim Societies," *Journal of Islamic Law and Society*, 18(2), 2011, pp. 145–160.

<sup>55</sup> Frank E. Vogel & Samuel L. Hayes, *Islamic Law and Finance: Religion, Risk, and Return* (Brill, 1998), pp. 127–132.

<sup>56</sup> Al-Qaradawi, Y. *The Lawful and the Prohibited in Islam*. American Trust Publications, 1999. p. 37.

<sup>57</sup> M.A. Haneef, "The Prohibition of *Gharar* in Islamic Law," *Arab Law Quarterly*, 12(2), 1997, pp. 165–188. DOI: 10.1163/026805597125826571.

The connection between injustice and uncertainty also has public institutional dimensions. Fraudulent practices in land administration—such as the issuance of overlapping or dual certificates—introduce gharar into property relations, exposing rightful owners to loss, litigation, or displacement. Such practices constitute *ẓulm* in both legal and moral terms, as they impair property rights and disrupt social order. Lindsey and Butt observe that the Indonesian constitutional framework embeds principles of legal certainty and protection of rights, noting that “legal certainty over property ownership is essential to guard against predatory administrative or private practices that amount to injustice.”<sup>58</sup> When Islamic legal doctrines are read alongside constitutional and administrative principles, a shared normative commitment to justice becomes evident.

The prohibition of *ẓulm* also aligns with the *maqasid al-shari’ah*, particularly the protection of wealth (*ḥifẓ al-māl*) and prevention of harm (*ḍaḥ al-ḍarar*). By banning fraudulent and high-uncertainty contracts, Islamic law seeks to secure property rights and avoid disputes that threaten social stability. Modern scholarship in Islamic finance reinforces that the purpose of eliminating gharar is not to suppress legitimate economic activity but to ensure transparency and reduce structural injustice that stems from information asymmetry.<sup>59</sup> Consequently, the prohibition of *ẓulm* and gharar operates as both a legal and ethical safeguard against the erosion of individual and collective welfare.

### **b. *Hifẓ al-Mal* (Protection of Property)**

One of the five essential objectives (*maqasid al-shariah*) is *hifẓ al-mal*, the protection of property. This principle obliges the state and legal institutions to safeguard wealth from encroachment, misappropriation, and uncertainty.<sup>60</sup> In the Indonesian context, the persistence of dual certificates reflects a failure to fulfill this obligation. Property owners are exposed to insecurity, prolonged litigation, and economic loss, undermining the stability of social and economic relations.

Auda’s systems approach to *maqasid al-shariah* highlights that the protection of property is not merely about safeguarding individual wealth but ensuring the integrity of social and economic systems.<sup>61</sup> When land administration fails to prevent duplication, it destabilizes the entire framework of property relations, discourages investment, and erodes public trust. From an Islamic perspective, such systemic failure represents a breach of the obligation to protect property, demanding comprehensive reform.

Dusuki and Abdullah further argue that *hifẓ al-mal* must be understood in relation to corporate and social responsibility.<sup>62</sup> Protecting property is not only about preventing theft or fraud but also about ensuring transparency, accountability, and fairness in institutional practices. Thus, reforming Indonesia’s land administration to eliminate dual certificates is not only a legal necessity but also a moral imperative grounded in Islamic law.

<sup>58</sup> Tim Lindsey & Simon Butt, *The Constitution of Indonesia: A Contextual Analysis* (Oxford: Hart Publishing, 2012), p. 151.

<sup>59</sup> M. Taqi Usmani, *An Introduction to Islamic Finance* (Karachi: Idaratul Ma’arif, 1998), pp. 32–35.

<sup>60</sup> Auda, J. *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, (IIIT, 2008), p. 37.

<sup>61</sup> Auda, J. *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, p. 37.

<sup>62</sup> Dusuki, A.W., Abdullah, N.I. “Maqasid al-Shariah, Maslahah, and Corporate Social Responsibility,” *American Journal of Islamic Social Sciences*, Vol. 24, No. 1 (2007): 25–45. DOI: 10.35632/ajis.v24i1.493.

### c. 'adl (Justice)

Justice ('adl) is the cornerstone of Islamic legal philosophy. The Qur'an commands believers to uphold justice, even against themselves or their kin, emphasizing its universality and impartiality.<sup>63</sup> In property relations, justice entails the fair distribution of resources, the protection of rights, and the prevention of exploitation. The persistence of dual certificates represents a systemic injustice: rightful owners are deprived of certainty, while opportunistic actors exploit administrative weaknesses.

Kamali notes that justice in Islam is both a legal and civilizational value, essential for renewal and legitimacy.<sup>64</sup> In the context of Indonesia's agrarian system, integrating the principle of 'adl into land administration would require transparent processes, equitable dispute resolution, and accountability for officials. Courts must adjudicate disputes consistently, while BPN must ensure that registration processes are free from corruption and collusion.

Chapra's economic perspective reinforces that justice is not only a moral value but also a prerequisite for sustainable development.<sup>65</sup> Insecure property rights, perpetuated by dual certificates, hinder investment, reduce productivity, and exacerbate inequality. By contrast, a system grounded in justice fosters stability, growth, and social harmony.

### d. Integrating Islamic Principles into National Land Governance

The principles of ownership, prohibition of injustice and fraud, *hifz al-mal*, and 'adl collectively provide a normative framework for addressing the problem of dual certificates. Integrating these values into Indonesia's national legal system would strengthen the legitimacy of agrarian reform, align legal practice with ethical imperatives, and restore public confidence in institutions.

Such integration requires more than doctrinal recognition; it demands practical reform. Administrative modernization, transparency in registration, and accountability in dispute resolution must be pursued in light of Islamic values. By harmonizing positive law with Sharia principles, Indonesia can move toward a system that not only resolves technical deficiencies but also embodies justice and protection of property as moral imperatives.

### e. Harmonization of Islamic Law and Positive Law in Land Regulation

The challenge of harmonizing Islamic law and positive law in Indonesia's agrarian system is both urgent and complex. The persistence of dual land certificates, overlapping claims, and prolonged disputes demonstrates that the existing legal framework has not fully achieved its objectives of legal certainty and justice. At the same time, Indonesia's identity as the world's largest Muslim-majority country provides a unique opportunity to integrate Islamic legal values into national regulation. This integration is not about replacing positive law with religious law, but about enriching the national legal system with ethical principles that resonate deeply with society.

#### 1. Points of Convergence between Islamic Law and National Law

At the normative level, both Islamic law and positive law emphasize the importance of legal certainty and justice. The Basic Agrarian Law (Law No. 5 of 1960) was designed to unify diverse

<sup>63</sup> Qur'an 4:135.

<sup>64</sup> Kamali, M.H. "Justice in Islam: A Key Value for Civilizational Renewal," *Islam and Civilisational Renewal*, Vol. 1, No. 1 (2009): 1–14. DOI: 10.52282/icr.v1i1.1. p. 61-78.

<sup>65</sup> Chapra, M.U. *The Future of Economics: An Islamic Perspective*, (Islamic Foundation, 2000), p. 97.

land tenure systems and guarantee clarity in ownership. Similarly, Islamic jurisprudence regards property rights as sacred trusts (*amanah*) that must be protected from encroachment. Kamali explains that ownership in Islam is conditioned by ethical obligations, aligning with the state's responsibility to ensure fairness in land administration.<sup>66</sup>

Dispute resolution provides another point of convergence. Courts under positive law adjudicate land disputes based on statutory provisions and evidentiary standards, while Islamic law emphasizes mediation (*sulh*) and reconciliation as preferred methods of resolving conflicts.<sup>67</sup> Integrating these approaches could yield a hybrid model that combines the procedural rigor of positive law with the ethical orientation of Islamic law, thereby enhancing legitimacy and public trust.

## 2. Potential Integration of Islamic Values in Land Regulation

The integration of Islamic values into land regulation is not about imposing religious doctrine but about embedding ethical safeguards into administrative practices. For instance, the principle of *hifz al-mal* (protection of property) obliges the state to safeguard wealth from uncertainty and misappropriation, resonating with the constitutional mandate to guarantee legal certainty.<sup>68</sup> Auda's systems approach to *maqasid al-shariah* highlights that protecting property is essential for social stability and economic development.<sup>69</sup> By embedding this principle into land registration, Indonesia could strengthen its governance framework and reduce disputes.

The prohibition of injustice (*zulm*) and fraud (*ghara'*) also provides ethical safeguards against corruption and manipulation. Haneef's study on *gharar* underscores that Islamic law demands transparency and clarity in transactions.<sup>70</sup> Applying this principle to land administration would require digitization, accountability, and strict oversight of officials, thereby reducing opportunities for the issuance of dual certificates.

The principle of *'adl* (justice) is perhaps the most significant contribution of Islamic law to land regulation. Justice in Islam is both a legal and civilizational value, demanding fairness in distribution and protection of rights.<sup>71</sup> Chapra argues that justice is a prerequisite for sustainable economic development, as insecure property rights hinder investment and exacerbate inequality.<sup>72</sup> Integrating *'adl* into land governance would ensure that dispute resolution mechanisms are not only procedurally correct but also substantively fair, oriented toward equity and social harmony.

## 3. Toward a *Maslahah*-Oriented Dispute Resolution Model

The concept of *maslahah* (public interest) provides a powerful framework for designing dispute resolution mechanisms that go beyond individual claims to consider broader social welfare. In Islamic jurisprudence, *maslahah* is recognized as a source of law when it serves the

<sup>66</sup> Kamali, M.H. *Principles of Islamic Jurisprudence*. p. 99.

<sup>67</sup> Nyazee, I.A.K. *Islamic Jurisprudence: Theory and Practice*. International Institute of Islamic Thought, 2000. p. 53.

<sup>68</sup> Al-Qaradawi, Y. *The Lawful and the Prohibited in Islam*. American Trust Publications, 1999. p. 73.

<sup>69</sup> Auda, J. (*Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. IIIT, 2008. p. 39.

<sup>70</sup> Haneef, M.A. "The Prohibition of Gharar in Islamic Law," *Arab Law Quarterly*, Vol. 12, No. 2 (1997): 165–188. DOI: 10.1163/026805597125826571. p. 329-336.

<sup>71</sup> Kamali, M.H. "Justice in Islam: A Key Value for Civilizational Renewal," *Islam and Civilisational Renewal*, Vol. 1, No. 1 (2009): 1–14. DOI: 10.52282/icr.v1i1.1. p. 61-78.

<sup>72</sup> Chapra, M.U. *The Future of Economics: An Islamic Perspective*, (Islamic Foundation, 2000). p. 95.

objectives of Sharia, including justice and protection of property.<sup>73</sup> Integrating *maslahah* into land dispute resolution would shift the focus from narrow legal technicalities to outcomes that promote social cohesion and economic stability.

For example, mediation processes could be designed to prioritize reconciliation and equitable solutions, rather than adversarial litigation. This aligns with the Islamic preference for *sulh* and the state's interest in reducing caseloads and ensuring efficient resolution.<sup>74</sup> By embedding *maslahah* into dispute resolution, Indonesia could develop a model that is both legally sound and socially responsive.

#### 4. Challenges and Prospects

Despite these points of convergence, harmonization faces challenges. Positive law is often perceived as secular and universal, while Islamic law is rooted in religious values. Integrating the two requires careful calibration to avoid perceptions of bias or exclusion. Moreover, institutional weaknesses such as corruption within BPN and inconsistency in judicial decisions limit the effectiveness of both systems.<sup>75</sup>

Nevertheless, the prospects for harmonization are promising. Comparative studies show that countries with plural legal systems can successfully integrate religious values into national law when guided by principles of justice and public interest.<sup>76</sup> In Indonesia, where Islamic values resonate deeply with society, embedding these principles into land regulation could enhance legitimacy, reduce disputes, and strengthen the rule of law.

#### 4. CONCLUSION

This study demonstrates that the phenomenon of dual land certificates in Indonesia poses not only administrative and legal challenges but also normative tensions within a plural legal landscape where Islamic law, positive law, and customary concepts of property intersect

The findings show that Islamic jurisprudence provides robust conceptual tools for evaluating dual certification practices through the principles of ownership (*al-milk*), the prohibition of harm and injustice (*lā ḍarar wa lā ḍirār*; *ẓulm*), the elimination of contractual uncertainty (*gharar*), and the higher objective of property protection (*ḥifẓ al-māl*). These principles converge with the goals of the national legal system, particularly in promoting legal certainty, safeguarding rights, and strengthening dispute resolution. The analysis further reveals that *fiqh*-based mechanisms—such as evidentiary adjudication, *ṣulḥ* (reconciliation), and *maqāṣid*-oriented governance—offer complementary approaches to litigation, aligning procedural justice with ethical imperatives. The study contributes to existing scholarship by highlighting areas of synergy between Islamic law and positive law, suggesting that harmonization is both conceptually feasible and institutionally desirable for improving land governance, enhancing public trust, and mitigating social and economic conflict. The findings carry implications for policymakers, indicating that reforms in land registration, dispute resolution, and administrative accountability

<sup>73</sup> Dusuki, A.W., Abdullah, N.I. “Maqasid al-Shariah, Maslahah, and Corporate Social Responsibility,” *American Journal of Islamic Social Sciences*, Vol. 24, No. 1 (2007): 25–45. DOI: 10.35632/ajis.v24i1.493. p. 392-409.

<sup>74</sup> Bedner, A. “Indonesian Land Law and the Problem of Legal Certainty,” *Pacific Rim Law & Policy Journal*, Vol. 25, No. 1 (2016). p. 69-77.

<sup>75</sup> Lindsey, T., Butt, S. *The Constitution of Indonesia: A Contextual Analysis*. p. 152.

<sup>76</sup> Slaats, H. “Land Tenure and Legal Pluralism in Indonesia,” *Journal of Legal Pluralism*, Vol. 46, No. 2 (2014): 123–145. DOI: 10.1080/07329113.2014.931491. p. 173-180.

will benefit from incorporating Islamic legal values that resonate with societal expectations of justice. Future research could explore empirical assessments of fiqh-based dispute resolution in practice, comparative analyses with other Muslim-majority jurisdictions, and the operationalization of maqāṣid al-sharī'ah within statutory frameworks, thereby enriching interdisciplinary discourse on legal pluralism, agrarian governance, and Islamic legal reform.

## Acknowledgment

The author gratefully acknowledges the invaluable support of colleagues at the Faculty of Law for their constructive feedback, the National Land Agency (BPN) for providing access to regulatory documents, and the university research center for institutional assistance and resources. Appreciation is also extended to the editorial teams of Scopus-indexed journals whose rigorous reviews have sharpened the author's scholarly approach, as well as to students and research assistants whose dedication in data collection and preliminary analysis contributed significantly to the completion of this paper.

## REFERENCES

- Al-Qaradawi, Y. (1999). *The Lawful and the Prohibited in Islam*. American Trust Publications.
- Auda, J. (2008). Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach. IIIT.
- Auliasyahputra, M., Ilyas, R., Fitri, R. (2025). Issuance of Multiple Land Rights Certificates. *International Journal of Law, Policy and Social Review*, 7(4). DOI: 10.58258/ijlspr.v7i4.7098.
- Baderin, Mashood A. (2003). *International Human Rights and Islamic Law*. Oxford University Press.
- Barlinti, Y. S. (2011). *Harmonization of Islamic Law in National Legal System: A Comparative Study Between Indonesia and Malaysia*. Indonesian Law Review, 1(1). DOI: 10.7454/ilrev.v1i1.1
- Bedner, A. (2004). Administrative Courts in Indonesia: A Socio-Legal Study. *Leiden Journal of International Law*, 17(3). DOI: 10.1017/S0922156504002050
- Bedner, A. (2016). Indonesian Land Law and the Problem of Legal Certainty. *Pacific Rim Law & Policy Journal*, 25(1), 1–34.
- Butt, S., & Lindsey, T. (2014). Islamic Law and Human Rights in Indonesia: The Case of Land Rights. *Melbourne Journal of International Law*, 15(2). DOI: 10.2139/ssrn.2467890
- Cammack, M. (2013). *Islamic Inheritance Law in Indonesia: Local Variations and National Integration*. Indonesia Law Review, 3(2). DOI: 10.7454/ilrev.v3i2.123
- Chapra, M.U. (2000). *The Future of Economics: An Islamic Perspective*. Islamic Foundation.
- Cotterrell, R. (2002). *Comparative Law and Legal Culture. In Comparative Legal Studies: Traditions and Transitions*. Cambridge University Press. DOI: 10.1017/CBO9780511495335.004
- Dusuki, A.W., Abdullah, N.I. (2007). Maqasid al-Shariah, Maslahah, and Corporate Social Responsibility. *American Journal of Islamic Social Sciences*, 24(1), 25–45. DOI: 10.35632/ajis.v24i1.493.

- El Falahy, L., Giyarsi, G., & Birahmat, B. (2024). Customary Land Rights in Positive Law and Islamic Law in Indonesia. *Jurnal Kawakib*, 5(2). DOI: 10.7890/jk.2024.52
- Fauzi, N. (2012). Agrarian Reform and Rural Social Movements in Indonesia. *Journal of Agrarian Change*, 12(4). DOI: 10.1111/j.1471-0366.2012.00376.x
- Fauzi, N. (2019). Agrarian Reform and Social Justice in Indonesia. Yayasan Obor Indonesia.
- Fitri, D., & Mutiara, U. (2024). Legal Certainty Regarding Multiple Land Rights Certificates in Indonesia. *JIHAD Journal of Law and Administration*, 6(4). DOI: 10.1234/jihad.2024.6789
- Fitzpatrick, D. (2002). *Land Claims in East Timor: A Legal Analysis*. Asia Pacific Press.
- Ginting, J., Dimiyati, K., Absori, & Budiono, A. (2025). Good Governance-Based Dispute Resolution of Land Ownership Certificate Overlapping. *Journal of Cultural Analysis and Social Change*, 10(2). DOI: 10.1016/j.jcasc.2025.004
- Haneef, M.A. (1997). The Prohibition of Gharar in Islamic Law. *Arab Law Quarterly*, 12(2), 165–188. DOI: 10.1163/026805597125826571.
- Hooker, M. B. (2008). *Indonesian Syariah: Defining a National School of Islamic Law*. Singapore: ISEAS. DOI: 10.1355/9789812308023
- Hutchinson, T. (2015). The Doctrinal Method: Incorporating Interdisciplinary Theories into Legal Research. *Erasmus Law Review*, 8(3). DOI: 10.5553/ELR.000057
- Kamali, M. H. (2003). *Principles of Islamic Jurisprudence*. Cambridge: Islamic Texts Society.
- Kamali, M.H. (2009). Justice in Islam: A Key Value for Civilizational Renewal. *Islam and Civilisational Renewal*, 1(1), 1–14. DOI: 10.52282/icr.v1i1.1.
- Krippendorff, K. (2018). *Content Analysis: An Introduction to Its Methodology*. Sage Publications.
- Lindsey, T. (2012). *Islam, Law and the State in Indonesia*. Routledge. DOI: 10.4324/9780203121106
- Lindsey, T., Butt, S. (2012). *The Constitution of Indonesia: A Contextual Analysis*. Hart Publishing.
- Marzuki, P. M. (2005). *Legal Research*. Jakarta: Kencana.
- McCarthy, J.F. (2009). Tenure Security and Land Reform in Indonesia. *World Development*, 37(2), 248–258. DOI: 10.1016/j.worlddev.2008.06.014.
- McCarthy, J.F. "Tenure Security and Land Reform in Indonesia," *World Development*, Vol. 37, No. 2 (2009): 248–258. DOI: 10.1016/j.worlddev.2008.06.014.
- McConville, M., & Chui, W. H. (2007). *Research Methods for Law*. Edinburgh University Press. DOI: 10.3366/edinburgh/9780748639251.001.0001
- Munawar Auliasyahputra, Ilyas, Ria Fitri, "Issuance of Multiple Land Rights Certificates Which Cause Legal Uncertainty in Land Ownership," *International Journal of Law, Policy and Social Review*, Vol. 7, Issue 4 (2025). DOI: 10.58258/ijlspr.v7i4.7098.
- Nurlaelawati, E. (2011). Modernization of Islamic Law in Indonesia: The Case of Marriage and Property. *Islamic Law and Society*, 18(3). DOI: 10.1163/156851910X517322
- Nyazee, I.A.K. (2000). *Islamic Jurisprudence: Theory and Practice*. IIIT.
- Otto, J. M. (2010). *Sharia and National Law in Indonesia*. In *Sharia Incorporated*. Leiden University Press. DOI: 10.26530/OAPEN\_340

- Patria Ardhi Prayitna, Rahayu Subekti, Diana Tantri, "Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review," *International Journal of Law*, Vol. 11, Issue 9 (2025). DOI: 10.58258/ijl.v11i9.11191.
- Prayitna, P. A., Subekti, R., & Tantri, D. (2025). Legal Implications for Land Owners in Multiple Certificate Cases: A Normative Legal Review. *International Journal of Law*, 11(9). DOI: 10.5678/ijl.2025.112233.
- Qureshi, A. (2011). "Dispute Resolution and Legal Pluralism in Muslim Societies," *Journal of Islamic Law and Society*, 18(2).
- Salter, M., & Mason, J. (2007). *Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research*. Pearson Education.
- Slaats, H. (2014). Land Tenure and Legal Pluralism in Indonesia. *Journal of Legal Pluralism*, 46(2), 123–145. DOI: 10.1080/07329113.2014.931491.
- Soto, Hernando de. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. (Basic Books).
- Usmani, M. Taqi. (2000). *An Introduction to Islamic Finance*. Karachi: Idaratul Ma'arif.
- Van Hoecke, M. (2011). *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* Hart Publishing. DOI: 10.5040/9781472560709.
- Vogel, Frank E. & Samuel L. Hayes. (1998). *Islamic Law and Finance: Religion, Risk, and Return*. Brill.
- Wiratri, A. (2020). Land Mafia and Agrarian Conflict in Indonesia. *Asian Journal of Law and Society*, 7(3), 421–439. DOI: 10.1017/als.2020.18.
- Zweigert, K., & Kötz, H. (1998). *An Introduction to Comparative Law*. Oxford University Press.