

Reconstruction of Forest Area Land Tenure in the Perspective of Maqashid Sharia (*Hifz Al-Mal*) in Ngadirenggo Village, Wlingi District, Blitar Regency

, Rizky Rendyana Firmansyah¹, Diyan Isnaeni², Moh. Muhibbin³
^{1,2,3}Universitas Islam Malang, Indonesia

Abstract:

Conflicts over forest land ownership in Indonesia continue to recur due to the lack of synchronization between the agrarian and forestry regimes. This overlapping authority creates legal uncertainty and impacts the protection of the economic rights of communities living in and around forest areas. This situation occurs in Ngadirenggo Village, Wlingi District, Blitar Regency, where tensions between the community and Perhutani regarding the control and utilization of forest crops continue. This study aims to analyze the legal regulations for forest land ownership based on applicable laws and regulations in Indonesia and reconstruct its ownership policy from the perspective of maqashid sharia, specifically *hifz al-mal*, to support sustainable development in Ngadirenggo Village. The study used an empirical juridical method with a qualitative descriptive approach to examine the process of law working in society. The results of the study indicate that regulations on land ownership in forest areas have not been harmoniously integrated, giving rise to policy dualism and prolonged conflict. Policy reconstruction is directed at strengthening the recognition of local community rights, harmonizing agrarian and forestry regulations, strengthening land ownership resolution mechanisms, and orienting policies towards sustainable development that balances economic, social, and environmental aspects. In the perspective *hifz al-mal*, the policy update emphasizes certainty and protection of the results of community efforts without ignoring the sustainability of the ecological function of forest areas. The academic contribution of this article lies in integrating the maqashid sharia approach, particularly *hifz al-mal*, into the discourse of forest land governance and sustainable development, offering a conceptual framework for harmonizing agrarian and forestry policies while



Corresponding Author: risky.rendyana@gmail.com
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strengthening legal protection for local communities in forest areas.

Keywords:

Land Tenure, Forest Areas, *Hifz al-mal*, Policy

Introduction

Indonesia is one of the countries that has abundant natural resources in various sectors (Elsa Aurel Agustine Situmorang et al., 2024). This wealth demands management that is not only effective, but also just and oriented towards the public welfare. This is reflected in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.¹ This provision emphasizes that state authority over natural resources is essentially a constitutional mandate to guarantee the welfare and protect the economic rights of the people.²

However, unplanned, unsynchronized, or unsustainable natural resource management and control practices have the potential to cause serious ecological, social, economic, and political impacts.³ One of the issues with high structural complexity and ongoing problems in Indonesia is agrarian conflict. Agrarian conflict is not solely related to economic issues but also reflects unequal power relations, unfair distribution of resources, and uncertainty about land rights protection.⁴

Land ownership in forest areas is one of the most frequent issues that gives rise to conflict in natural resource governance. Unclear land status often gives rise to conflicting claims between communities and the state over the same plot of land. On the one hand, land is used by

¹ Nabilah Nur Hidayah and Muhamad Hasan Muaziz, "Meninjau Akar Masalah Konflik Agraria Di Indonesia," *Jurnal Al-Wasath* 5, no. 2 (2024): 105-16.

² Meilysa Ajeng Kartika Putri et al., "Konflik Agraria Dan Ketimpangan Penguasaan Lahan: Kajian Yuridis Terhadap Tanggung Jawab Negara Dalam Menjamin Hak Konstitusional Warga Negara Atas Tanah," *YURISDIKSI: Jurnal Ilmu Hukum Dan Humaniora* 1, no. 1 (2025): 10-19.

³ A Hidir and R Malik, "Teori Sosiologi Modern" (Yayasan Tri Edukasi Ilmiah, 2024).

⁴ Yusri, Sakaria, and Tautoto Tana Ranggina, "Mekanisme Penyelesaian Konflik Lahan Pada Masyarakat Kawasan Tambang Emas Pt. Masmino Dwi Area Di Kecamatan Latimojong Kabupaten Luwu," *Journal Publicuho* 7, no. 4 (2024): 2285-96, <https://doi.org/10.35817/publicuho.v7i4.599>.

communities as a source of livelihood and a means of meeting family economic needs. On the other hand, land within forest areas is under the authority of the state to be protected and preserved as part of its ecological function. This tension between economic and conservation functions is what ultimately triggers protracted conflict.

This phenomenon also occurs in Ngadirenggo Village, Wlingi District, Blitar Regency. This village has several hamlets located within forest areas: Ringintelu Hamlet, Perhutani Pijiombo Hamlet, and Perhutani Nongkorejo Hamlet. Of the three, Ringintelu Hamlet is the area experiencing the most persistent problems. Most of its land is within a forest area managed by Perum Perhutani, a state-owned forestry company. Approximately 50 residents currently manage approximately 30 hectares of forest land, cultivating various types of plants such as resin, pine, mahogany, as well as productive crops such as cassava, corn, coffee, and cloves.

Problems arise from the lack of clarity regarding the ownership status of the land being managed. This uncertainty not only concerns formal legal aspects but also impacts the rights to the crops planted and cared for by the community. Under certain conditions, communities are not permitted to cut down the crops they have planted themselves because the land is within a state forest area.⁵ This situation shows that there is a problem of protecting property rights which has not been fully guaranteed fairly.

These issues have implications for hampering sustainable development in Ngadirenggo Village. Sustainable development requires a balance between economic, social, and environmental dimensions. Villagers need land as a production base to improve their well-being and ensure their livelihoods. However, the state, through Perhutani and the Ministry of Environment and Forestry, is obligated to preserve forest areas as public ecological assets. When the relationship between community economic interests and state conservation obligations is not managed proportionally, tensions arise that lead to rights uncertainty.

In this context, the problem lies not only in the overlapping regulations between agrarian and forestry laws, but also in the

⁵ Deby Nurmaya Sari et al., "Keseimbangan Ekonomi Dan Lingkungan Dalam Pengelolaan Hutan Berkelanjutan : Konservasi Keanekaragaman Hayati Sebagai Aset Ekonomi," *Jurnal Akuntansi, Manajemen Dan Ekonomi (Jamane)* 3, no. 2 (2024): 11-19.

suboptimal guarantees of protection for communities' economic rights to the land they have managed for generations. This lack of alignment makes it difficult to find equitable solutions, resulting in recurring conflicts over land ownership in forest areas in various regions.

Normatively, the government has issued Presidential Regulation No. 88 of 2017 concerning the Settlement of Land Ownership in Forest Areas (PPTKH) as an instrument to resolve long-standing land ownership disputes within forest areas. This regulation is intended to provide legal certainty through a mechanism for inventorying and resolving community claims as part of the agrarian reform agenda. However, in its implementation, this policy has not been fully able to provide certainty and a sense of justice, particularly when confronted with conservation interests and administrative boundaries of forest areas.

On the other hand, Law Number 5 of 1960 concerning Agrarian Principles provides space for the recognition of land rights subject to certain criteria. However, in practice, land ownership in forest areas often results in communities receiving only limited access without strong legal certainty. This situation demonstrates a normative gap that directly impacts the protection of community assets, which serve as economic assets and are a source of livelihood.

In fact, the survival of the Ngadirenggo Village community is highly dependent on the forest land they manage for agriculture and plantations. This land is not merely a means of production, but also a living space that supports the social and economic well-being of the residents. In fact, according to community information, since 1974 there has been an unwritten understanding between the Forestry Department and residents that the community is allowed to live and manage the land with the obligation to participate in planting and caring for trees in the forest area (Rusmiyanto 2025, Wawancara). However, over time, the community has only been granted access rights through certain schemes, such as social forestry, the implementation of which still faces various obstacles. This situation has resulted in weak land tenure security and limited community rights to enjoy the fruits of their labor. In practice, communities are permitted to grow food crops under Perhutani-owned trees but are required to hand over a significant portion of the harvest to forest managers. This pattern raises questions about the proportionality of benefit sharing and the protection of community labor.

From the perspective of the maqashid sharia, specifically hifdz al-mal, assets acquired through legitimate endeavors must be protected from practices that could potentially harm or unfairly diminish rights. Therefore, the situation surrounding forest land ownership in Ngadirenggo Village demonstrates the urgency of policy reconstruction that aligns more closely with the principles of justice, certainty of rights, and protection of assets, so that the relationship between the state and society is not subordinate but rather a partnership oriented toward the common good.

In recent years, the Indonesian government has made various policy adjustments in the control and management of forest areas, one of which is through the One Map policy in 2018. This policy aims to provide an integrated geospatial database as a reference in development planning and policy-making, including to minimize overlapping land ownership. Although administratively the number of overlapping areas has decreased, the fact that there are still millions of hectares of land with potential overlapping areas indicates that the issue of land ownership in forest areas has not been fully resolved, including what is happening in Ngadirenggo Village.

This situation demonstrates that resolving the problem cannot be achieved solely through technical or administrative reforms, but rather requires a more fundamental policy reconstruction. This reconstruction involves not only changes to legal norms but also a shift in the state's paradigm regarding the relationship between rural communities and forest areas. The state is not merely positioned as an authority restricting access, but rather as a party guaranteeing equitable distribution, certainty of rights, and protection of the fruits of community efforts.⁶ It is in this context that the principle of hifdz al-mal becomes relevant, as protecting property implies not only formal recognition of ownership but also guaranteeing economic security and the sustainability of its benefits.

Ngadirenggo Village is relevant to study because it represents the issue of overlapping land ownership in forest areas, a problem that also occurs in various regions across Indonesia. Communities face limited access to land, unclear land rights, and weak bargaining power in forest

⁶ Muhammad Royhan Assaiq, "Masalah Mursalah Sebagai Metode Pendekatan Dalam Studi Hukum Islam," *Educatia: Jurnal Pendidikan Dan Agama Islam* 15, no. 1 (2025): 91-109.

management relations. This situation has the potential to create socio-economic inequality and contradicts the principle of fairness in resource distribution. Within the framework of Islamic law, this issue can be analyzed through the maqasid sharia approach, specifically *hifdz al-mal* (the principle of protecting property). Furthermore, the *maslahah mursalah* approach provides room for *ijtihad* (intelligible judgment) in formulating policies that are not only normatively valid but also bring tangible benefits to the community. With this approach, the reconstruction of forest land ownership is expected to balance state conservation interests with the protection of community economic rights, thus creating a more just and sustainable relationship.

Based on the background above, this study is directed to answer two main research questions. First, how are the legal regulations concerning land ownership in forest areas regulated under the laws and regulations currently in force in Indonesia, and what normative issues affect the protection of community land rights? Second, how can forest land ownership policies be reconstructed based on the maqashid sharia perspective, particularly *hifdz al-mal*, in order to realize legal certainty, distributive justice, and the protection of community assets in Ngadirenggo Village, Wlingi District, Blitar Regency?

Research Methods

This research is an empirical juridical study, namely research that examines applicable legal provisions and relates them to empirical realities in society. This approach is used to assess how legal norms regarding land ownership in forest areas are implemented in practice, and the extent to which these norms provide protection for community rights. Through this research, empirical facts found in the field serve as a basis for identifying normative problems and formulating a more equitable policy reconstruction.⁷ The approach used is a socio-legal approach, namely analyzing the reciprocal relationship between legal norms and social practices in land ownership in forest areas. This approach allows researchers to understand how law works in society, how relations between the state and society are formed, and how the position of community economic rights is realized or restricted in forest

⁷ Saifullah, *Tipologi Penelitian Hukum (Sejarah, Paradigma Dan Pemikiran Tokoh Di Indonesia)* (Bandung: PT Refika Aditama, 2018).

area management practices. In this study, empirical data regarding forest area land management practices in Ngadirenggo Village are analyzed by referring to applicable laws and regulations, then further examined from the perspective of maqashid sharia, specifically the principle of hifdz al-mal as the basis for asset protection. Thus, this research does not merely describe conflicts or regulatory inconsistencies, but also examines whether existing practices and policies reflect fair and proportional protection of property rights. Data collection methods include direct interviews with communities managing forest land, field observations to assess the actual conditions of land ownership, and document studies of regulations related to forest land ownership. The data obtained are then analyzed using thematic analysis techniques to identify problem patterns, forms of rights uncertainty, and aspects related to the protection of community property. The results of this analysis are then used as a basis for formulating a reconstruction of forest land ownership that is more in line with the principle of hifdz al-mal within the framework of maqashid sharia.

Result and Discussion

Legal Regulations Concerning Control of Forest Area Land According to the Laws and Regulations in Force in Indonesia

Legal regulation regarding land ownership in forest areas has been a persistent issue to date. This is because much forest land remains the subject of conflict, conceptually, normatively, and empirically. The Constitution, as the highest state law, actually regulates land ownership in Article 33, paragraph 3, which states that "*Earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.*" This means that this norm substantively mandates the state to manage natural resources, including land, but not as its owner. In exercising its authority to regulate, manage, and oversee its use, it must prioritize the welfare of the people.

Within this constitutional authority, there are two interrelated regimes in regulating forest land, namely Law No. 05 of 1960 concerning Basic Agrarian Regulations (UUPA) and the Forestry Law which includes Law No. 41 of 1999 in conjunction with Law No. 19 of 2004 concerning Forestry, Law No. 18 of 2013 concerning the

Prevention and Eradication of Forest Destruction, and also adjusted to Law No. 2 of 2022 concerning Cipta Kera and other derivative regulations. This dualism of authority is also often a major factor in overlapping regulatory conflicts that create tension between the community and the government. The goal of management for the public interest is also a challenge because forestry regulations are sectoral and different from the concept in the UUPA.⁸ Claims regarding who has the most power over natural resources on land often bring together communities and the authorized government in a tense conflict.

The UUPA broadly provides open space for all Indonesian citizens to guarantee their rights, such as ownership rights, land use rights (HGU), building use rights, and usage rights within the framework of prosperity and public welfare. This is clearly reflected in Article 5 of the UUPA, which states that land, water, and airspace, including the natural resources contained therein, are controlled by the state for maximum use for the welfare of the people. This regulation legitimizes the community to participate in the richness of existing natural resources. However, there are several important points for the public to understand: the UUPA does not fully legitimize the community in managing forest land.

Discussing forest areas is closely related to regulations for maintaining forest sustainability. Article 1, number 3 of the Forestry Law states that a forest area is a specific area designated by the government to be a permanent forest. Therefore, a forest area is an area whose primary function is to maintain ecosystem sustainability, whether as a protected forest, production forest, or conservation forest. Further regulations regarding the status and function of forest areas emphasize state dominance in their determination, change, and management. However, in practice, many forest areas have long been inhabited, cultivated, and even used as a source of livelihood by village communities, including indigenous communities, creating a conflict between legal norms and social realities.

In line with this, Article 5 paragraph 1 of the Forestry Law emphasizes that state forests cannot be owned by individuals or

⁸ Firman Muntaqo et al., "Pengadaan Tanah Pada Kawasan Hutan Bagi Pembangunan Untuk Kepentingan Umum Di Sektor Migas," *Repertorium* 9, no. 2 (2020): 71-84, <https://doi.org/10.28946/rpt.v9i2.921>.

community groups. This means that land management in forest areas must be directed towards the prosperity of the people, but absolute ownership rights cannot be granted to the community. Indonesian laws and regulations regarding land in forest areas have introduced a new concept in the form of a social forestry program as a legal instrument to resolve land conflicts in forest areas that occur, as stated in the Regulation of the Minister of Environment and Forestry Number P.39/MenLHK/Setjen/Kum.1/6/2017 concerning Forestry. social. Through the Village Forest, Community Forest, Community Plantation Forest, Customary Forest, and Forestry Partnership schemes, the state grants limited access to manage forest land for a certain period of time with the aim of realizing economic prosperity and maintaining forest sustainability.⁹ This program, initiated by the Ministry of Environment and Forestry, is an important instrument for realizing economic equality and sustainable development.¹⁰ Although quite ideal, the implementation of social forestry, especially at the village level, still faces challenges in the form of boundary conflicts, weak procedures and legal understanding, and low institutional capacity at the village level.¹¹ Therefore, communities and authorized government officials often act outside the corridors determined by laws and regulations. For example, communities who use forest land carry out illegal logging, and Perhutani, as state officials in maintaining forest sustainability, act as if the community does not have the right to participate in and preserve the forest.

Regarding the actions of the community, planting and felling trees without permission, has also been regulated in Article 50 paragraph 3 letter e of the Forestry Law which prohibits cutting trees

⁹ Lodewik Zet et al., "Peran Program Perhutanan Sosial Dalam Meningkatkan Pendapatan Rumah Tangga Di Sekitar Kawasan Hutan (Studi Kasus Indepth Interview Perhutanan Sosial Fungsi Statistik Kehutanan BPS 2001)," *Ulin: Jurnal Hutan Tropis* 6, no. 2 (2022): 179-87.

¹⁰ Muhammad Eka Rahman, Abdurrahman Ahmad, and Musyarofah, "Pendampingan Program Perhutanan Sosial Masyarakat Desa Hutan Burno Kabupaten Lumajang Menuju Pembangunan Berkelanjutan Indonesia 2030," *Islamic Management* 3, no. 2 (2021): 116, <https://doi.org/10.18326/imej.v3i1.115-132>.

¹¹ Mohammad Toha and Ake Wihadanto, "Dampak Perhutanan Sosial Terhadap Kesejahteraan Masyarakat Sekitar Hutan Dalam Mendukung Kelestarian Hutan Di Kota Tarakan Masyarakat Yang Bermukim Di Sekitar Kawasan Dalam Menjaga Kelestarian Hutan , Namun Sayangnya Memenuhi Kebutuhan Hidupnya , Ditambah," *Ulin: Jurnal Hutan Tropis* 7, no. 2 (2023): 133-41.

in state forest areas without permission. This is in line with Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction which regulates criminal sanctions for perpetrators of illegal logging. Article 12 letter c states that everyone is prohibited from carrying out illegal felling of trees in forest areas. If found violating, they are threatened with imprisonment and fines as regulated in Article 28 paragraph 1 letter c which reads *"Any person who intentionally cuts down trees in a forest area without having the rights or permission from an authorized official as referred to in Article 12 letter c, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least Rp. 500,000,000.00 (five hundred million rupiah) and a maximum of Rp. 2,500,000,000.00 (two billion five hundred million rupiah)."* This means that there are certain limitations that indigenous communities must fulfill in managing land in state-owned forest areas.

Perhutani also has authority under Government Regulation Number 72 of 2010 concerning the State Forestry Public Company (Perum). This regulation explains that Perum Perhutani is responsible for managing production and protected forests in Java and Madura. Perhutani's mandate is based on Article 5 of the same regulation, which states: *"The company carries out business activities in the forestry sector which include planning, management, exploitation and protection of forests, as well as the collection of forest products in state forest areas."* Furthermore, Article 6 states that *"The state forest areas as referred to in Article 5 are production forests and protected forests located in the provinces of Central Java, East Java, West Java, and Banten."* This regulation legitimizes Perhutani's ability to plan, manage, utilize, and protect forest areas. Therefore, Perhutani plays a strategic role in maintaining a balance between the use of natural resources generated by forest land and environmental sustainability, in accordance with applicable laws and regulations.

The enactment of Law No. 11 of 2020 concerning Job Creation, which is expected to improve overlapping regulations, particularly regarding investment issues, including the environmental and forestry sectors, is also expected to drive cooperation between the community and the government in preserving natural resources, including forests. This law introduces flexibility in the use of forest areas for investment, infrastructure, and strategic development purposes. While this regulation is expected to support national development, it is also exploited to pursue economic growth targets rather than sustainable

development.¹² In other words, the regulatory orientation is more inclined towards macroeconomic interests and investment rather than empowering local communities.

When viewed from the perspective of national legal development, land ownership in forest areas in Indonesia still faces serious challenges to truly align with the mandate of Article 33 of the 1945 Constitution. Every legal norm that is born regarding forest management should be oriented towards the creation of social justice and the welfare of the people, not merely on economic growth or environmental sustainability in the abstract. The UUPA which is the basis for the social function of land ownership rights as an instrument for development and public welfare, in practice there are obstacles in regulations governing land use, and legal procedures that hinder the implementation of these social functions in real terms¹³ Although normatively it has been quite complex discussing forest land, this complexity has actually become a challenge in agrarian and forestry so that it has not run optimally until now, namely:

First, There are no regulations defining the rights and obligations of communities or the Forestry Department, which has authority over forest management and oversight. This creates the stigma of two interrelated but incompatible regimes: agrarian and forestry. This dualism complicates the process of legalizing land rights in forest areas. The current conflict demonstrates the importance of harmonizing agrarian and environmental policies to ensure the sustainability of forest ecological functions and protect the rights of local communities.¹⁴

Second, The uncertainty surrounding community rights is also a difficult problem to resolve. Although social forestry exists, it is only a permit for a specific period, not a permanent land right. Therefore, when the period expires, conflicts will resurface as before. It will be difficult to resolve agrarian conflicts if the state cannot guarantee the

¹² Helmi Helmi, Fitria Fitria, and Retno Kusniati, "Penggunaan Omnibus Law Dalam Reformasi Regulasi Bidang Lingkungan Hidup Di Indonesia," *Masalah-Masalah Hukum* 50, no. 1 (2021): 24–35, <https://doi.org/10.14710/mmh.50.1.2021.24-35>.

¹³ Dios Ferdian Harefa, Muhammad Hero Soepeno, and Yumi Simbala, "Fungsi Sosial Hak Milik Atas Tanah Dalam Menunjang Pembangunan Di Indonesia Menurut Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria," *Lex Administratum* 8, no. 3 (2020): 89–98.

¹⁴ Annisa Fitratul Jannah, Mia Puspita Sari, and M Yamani, "Hukum Agraria Dan Perlindungan Hutan Lindung Di Indonesia," *Jurnal Hukum Ius Publicum* 6, no. 1 (2025): 1–11, <https://doi.org/10.55551/jip.v6i1.327>.

rights of its people. Although the Minister of ATR/BPN, through Ministerial Regulation No. 14 of 2024, provides technical guidance regarding the recognition and registration of customary land rights, its implementation still faces challenges, one of which is the disharmony of regulations at both the national and local levels.¹⁵

Third, The policies taken by the government, sometimes actually put aside social justice. The state, under the pretext of control over natural resources granted by Article 33 paragraph 3 of the 1945 Constitution, often applies a repressive approach to village communities who carry out activities in forest areas without considering the impacts that will be received by the local community. This is evident in the many cases that arise, conflicts occur due to the lack of recognition of the rights of indigenous peoples and the government through its policies prioritizes the interests of development and investment.¹⁶ This situation shows the gap between the community and the government. The community views land as a source of livelihood that is inherited and maintained as well as possible, while the government sees it solely as an object that is given the power to manage it.

Thus, the current legal regulations regarding land ownership in forest areas in Indonesia still leave various normative issues. Although constitutionally the state is mandated to control natural resources, its implementation is often not in line with the interests of the people, especially rural communities such as in Ngadirenggo Village, Wlingi District, Blitar Regency. This problem indicates the need for policy reformulation that is more pro-people and oriented towards sustainable development. Satjipto Rahardjo in progressive legal theory states that the law should exist for humans, not the other way around, humans who must submit and obey the law. Therefore, whenever there is a problem in the law, it is the law that must be reviewed and improved, not humans who are forced to enter the legal scheme.¹⁷ This

¹⁵ Bibit Ayu Astriani and Septi Indrawati, "Kajian Yuridis Terhadap Hak Atas Tanah Adat Dalam Penyelesaian Sengketa Agraria," *Eksaminasi: Jurnal Hukum* 3, no. 4 (2024): 218–27.

¹⁶ Yunita Bernanda, Iis Qomariah, and Enggika Mandasari, "Analisis Konflik Tanah Dalam Konteks Hukum Adat," *Jejak Digital: Jurnal Ilmiah Multidisiplin* 1, no. 3 (2025): 516–23, <https://doi.org/10.63822/69cvs927>.

¹⁷ Sadjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum* (Yogyakarta: Genta Publishing, 2009).

is in line with the state's control over forests should not be understood merely as administrative authority, but should be directed towards providing greater participation space for the communities who depend on the area for their livelihoods.

The actual state of conflict between communities and forest managers varies considerably depending on the region. Data from the Agrarian Reform Consortium (KPA) noted that agrarian conflicts related to forest areas ranked first out of six countries in Asia in 2023, namely 241 conflicts.¹⁸ Indonesia also occupied 74% of the total conflict incidents compared to India, Cambodia, the Philippines, Bangladesh, and Nepal.¹⁹ In 2024, agrarian conflicts in Indonesia experienced an increase of 21% or the equivalent of more than 50 cases of agrarian conflict.²⁰ These conflicts arose on average due to unilateral claims by the state over forest areas without considering the existence of local communities.²¹ Communities who have been farming land within forest areas for decades have suddenly been declared illegal farmers and now face the threat of legal action.

A similar situation was experienced by the people of Ngadirenggo Village, Wlingi District, Blitar Regency. Part of this village's territory falls within a forest area managed by Perhutani. The villagers have long depended on farming and gardening on the land for their livelihood. However, due to the land's forest status, they are unable to obtain land ownership certificates or land use rights from the National Land Agency (BPN). The only legal access granted is in the form of limited social forestry permits. This situation creates legal uncertainty and a sense of injustice, as the community is positioned as only temporary cultivators. This analysis indicates that the existing legal arrangements do not fully meet the principles of social justice as

¹⁸ Siaran Pers Konsorsium Pembaruan Agraria dan Asia NGO Coalition for Agrarian Reform and Rural Development, "Konflik Agraria Di Indonesia Tertinggi Dari Enam Negara Asia," Konsorsium Pembaruan Agraria, 2024.

¹⁹ Siaran Pers Konsorsium Pembaruan Agraria dan Asia NGO Coalition for Agrarian Reform and Rural Development.

²⁰ Abita Jovina, "Konflik Agraria Di Indonesia Terus Naik, Capai 295 Kasus Di 2024," Good Stats, 2025.

²¹ Radiatul Adawiyah, Zaiyardam Zubir, and Hary Efendi, "Perampasan Tanah Dan Perlawanan Petani:Dampak Perkebunan Sawit Terhadap Kehidupan Masyarakat Di Pasaman Barat Tahun 1980-2022," *ETNOREFLIKA: Jurnal Sosial Dan Budaya* 13, no. 1 (2024): 1-23.

mandated by the constitution. Therefore, subsequent discussions regarding policy reformulation are crucial as a solution to bridge the conflict between legal norms and the actual needs of the village community.

Reconstruction of Forest Area Land Control Policy Based on Hifdz al-Mal in Ngadirenggo Village, Wlingi District, Blitar Regency

Ngadirenggo Village is a village in Wlingi District, Blitar Regency. It covers an area of approximately 3,907 hectares and has a population of 5,883 people and 1,672 families. The population is spread across 12 hamlets: Ngadirenggo Hamlet, Ngola'an Hamlet, Sanggrahan Hamlet, Nongkorejo Hamlet, Nongkorejo Perhutani Hamlet, Genjong Hamlet, Sengon Hamlet, Ringintelu Perhutani Hamlet, Duren Hamlet, Bedengan Pijiombo Hamlet, Pijiombo Perhutani Hamlet, and the Sirah Kencong Plantation. Of these hamlets, three are located within state forest areas managed by Perhutani: Ringintelu Hamlet, Pijiombo Hamlet, and Nongkorejo Hamlet. Of these three, one uses the forest area not only for farming but also as a residential area. This demonstrates that the forest area in Ngadirenggo Village serves a dual purpose: as both a production area and a living space for some residents.

The forest area has experienced several disputes between the community and the Forestry Department, particularly regarding tree felling by the community on forest land. The community believes they have a direct connection to the trees they cut down, having planted and cared for them over a long period. The approximately 30-hectare plot of land cultivates various forestry plants, such as damar, pine, and mahogany, as well as productive crops like cassava, corn, coffee, and cloves. This situation demonstrates the uncertainty surrounding ownership and control of plants growing on forest land. On the one hand, the land is administratively located within state forest areas. On the other hand, certain plants are planted and maintained directly by the community. This situation opens up the possibility of conflict over the boundaries of each party's rights and responsibilities regarding the crops, both in terms of utilization and economic control. To date, this issue has not been resolved in a way that provides certainty for both parties.

Based on interviews with the community, the forest area has historically been used as a residential area since around 1974. At that

time, an agreement was reached between the Forestry Department (Perhutani) and the community, allowing residents to live in the forest area on the condition that they participate in planting and caring for the existing trees. Since then, the practice of intercropping has been introduced, allowing residents to plant food crops such as corn, cassava, and coffee under Perhutani's pine and damar trees. The policy also requires communities to hand over 75% of their harvest to the Forestry Department. Since around 1996, communities have begun planting sengon trees and other types of wood on their own initiative (Rusmiyanto 2025, Wawancara). This practice has given rise to new dynamics related to the control and utilization of crops grown independently by communities. This situation became the starting point for the conflict between the Ngadirenggo Village community and the Perhutani (Indonesian Forestry Company). The community felt they had legitimacy over the timber trees growing in the forest area because they planted, fertilized, and cared for them themselves, using their own capital and independent labor, without receiving wages. From the community's perspective, direct involvement in the production process created moral and economic claims over the crops.

Based on this, some communities took the initiative to cut down and sell the timber they had planted themselves (Rusmiyanto 2025). This action was then questioned by Perhutani, as administratively the land remained within the state forest area. Any logging activity, even on timber planted by the community itself and not on pine or resin trees owned by Perhutani, is still considered a violation. This is where the difference in perspective between formal control of the land and actual involvement in the crop production process becomes apparent.

In light of these conditions, restructuring forest land tenure policies is an urgent need. The Ngadirenggo Village community has long depended on the land they occupy and manage for their livelihood. Agricultural and timber cultivation activities have been carried out for generations, so changes in policy patterns that limit the use of crop yields have given rise to social tensions. When communities lack certainty regarding their rights to the fruits of their labor, a sense of injustice arises, potentially prolonging the conflict.

The rigid administrative status of forest areas often does not fully reflect the social realities on the ground. Communities ultimately gain limited access through social forestry schemes without long-term legal certainty regarding their livelihoods. This situation creates a dilemma:

on the one hand, the state is obliged to maintain the ecological function of forests, while on the other, communities are actually dependent on these lands for their basic livelihoods.

A significant development occurred in 2023 with the issuance of Decree of the Minister of Environment and Forestry No. SK.5660/MENLHK-PSKL/PKPS/PSL.0/6/2023. This decree granted state recognition to communities who had long occupied forest areas by granting them use rights. Furthermore, communities were permitted to engage in agricultural cultivation in forest areas, with the restriction that they not plant commercially viable timber. If communities continued to plant commercial timber, the yields could be taken over by Perhutani. This decision normatively clarifies the community's position as managers, not owners, of forest land. While there is recognition in the form of usage rights, restrictions on the types of plants that can be traded indicate that the community's economic space remains within certain boundaries determined by the state.

In perspective *maslahan mursalah*, land management policies must consider the balance between environmental protection and community welfare. The good news provide space for the formation of policies that do not conflict with texts, *ijma'*, or *qiyas*, as long as they support the main objectives of *maqashid sharia*, including the protection of property (*hifdz al-mal*).²²

If it is linked to the classification of welfare, the phenomenon of land ownership in Ngadirenggo Village can be placed at the level *masalah al-daruriyah*, because it concerns the community's basic needs for survival. Land and crops serve not only as a source of income but also as a place to live and support the family's livelihood.²³ Therefore, restrictions or uncertainty over such control have the potential to directly impact the economic and social stability of rural communities.

From the perspective of *maqashid sharia*, the reconstruction of land ownership policies in forest areas in Ngadirenggo Village is

²² Muh. Idris, Finsa Adhi Pratama, and Lian Mulyani Muthalib, "The Using of Masalah Mursalah Method as Hujjah," *Al-'Adl* 14, no. 2 (2021): 184, <https://doi.org/10.31332/aladl.v14i2.2793>.

²³ Farkhan Muhammad, "Kehujjahan Istishlah/Maşlahah Mursalah Sebagai Dalil Hukum: Perspektif 4 Madzhab," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 9, no. 9 (2022): 3593.

substantially related to the principle *hifz al-mal* (protection of assets).²⁴ This principle requires guarantees for the security and sustainability of assets obtained through legitimate business. Its normative basis can be referred to QS. An-Nisa' verse 29 which emphasizes the prohibition of consuming the property of others unjustly. Allah SWT says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ
مِنْكُمْ

“O you who believe, do not consume one another’s wealth unjustly, but only through lawful trade conducted by mutual consent among you.”

This verse indicates that any form of acquisition or control of assets must be based on justice, transparency, and the willingness of all parties, and must not unilaterally harm any party. In the context of Ngadirenggo Village, the community has planted, cared for, and managed timber and agricultural commodities with their own labor, expense, and risk for years. The results of this process constitute part of the assets born from real efforts (*profession*) which is legitimate, so in principle it requires fair protection and may not be removed without a clear basis.

Apart from that, QS. Al-Baqarah verse 188 also prohibits taking other people's property in an unlawful manner. Allah SWT says:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ
النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

“And do not consume one another’s wealth unjustly, nor use it to bribe authorities in order to wrongfully consume a portion of others’ wealth while you know.”

This principle reinforces that asset protection concerns not only formal ownership of an object, but also fairness in the control and utilization of business results. In the context of forest land control,

²⁴ Mohammad Sulthon, “Peranan Masalah Mursalah Dan Masalah Mulghah Dalam Pembaruan Hukum Islam,” *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 25, no. 1 (2022): 61.

policies that do not provide clarity regarding community crop yields have the potential to create economic uncertainty. Therefore, forest land control policies must not eliminate community economic rights to the crops they cultivate themselves without a clear, fair, and proportional mechanism, so that the principle of *hifz al-mal* truly realized in land management practices in Ngadirenggo Village.²⁵

Based on these two arguments, *hifz al-mal* In the context of Ngadirenggo Village, legal certainty regarding the results of community land management is required. Property protection does not always equate to full land ownership, but can be achieved through guaranteed management rights, protection of crop yields, and clarity on the distribution of benefits that does not disadvantage either party.

In the context of Ngadirenggo Village, the normative reformulation of forest land tenure policy has been realized through Decree SK.5660/MENLHK-PSKL/PKPS/PSL.0/6/2023. Through this policy, communities obtain use rights to forest land and a Village Forest scheme with collective management rights for 35 years. Legally, this policy demonstrates state recognition of the existence and activities of communities within forest areas (Kasi 2025, Wawancara). However, in practice, the implementation of these regulations has not been fully effective. Tensions between the community and Perhutani (the state forestry company) persist. Perhutani believes that communities often rely on permits issued without fully complying with the accompanying regulatory requirements (Kasi, 2025, Interview). On the other hand, the Ngadirenggo Village community stated that the local wisdom-based management system has long been in place and is not solely economically oriented, but also maintains the balance of the forest ecosystem.

Problems arise when administrative restrictions, including a profit-sharing system deemed disproportionate, are seen as limiting the community's management rights over the crops they cultivate themselves. From this perspective, *hifz al-mal* This situation indicates that protection for community business outcomes is not yet fully operationally guaranteed. Therefore, legal policy reforms are needed that are more responsive and applicable, and capable of providing

²⁵ Assaiq, "Masalah Mursalah Sebagai Metode Pendekatan Dalam Studi Hukum Islam."

certainty and protection for community economic rights without neglecting the ecological function of forest areas.

Problems arise when administrative restrictions, including a profit-sharing system deemed disproportionate, are perceived as limiting the community's management rights over the crops they cultivate themselves. From the perspective of *hifz al-mal*, this condition indicates that the protection of community economic outcomes has not yet been fully guaranteed in practice. Therefore, legal policy reforms are required that are more responsive and applicable, capable of ensuring certainty and protection of community economic rights without neglecting the ecological function of forest areas.

In practice, community access to forest land has so far been limited to fixed-term permit schemes through the social forestry program. This model does not fully provide strong tenurial certainty. To ensure the protection of assets (*hifz al-mal*), communities require legal certainty that is not merely temporary and administrative in nature, but one that possesses stronger legitimacy within the national legal system. Consequently, policy reform should focus on strengthening the recognition of local and indigenous community rights, including the reservation of customary forests and the recognition of tenure rights as part of a systematic legal framework rather than temporary sectoral policies. Such legal certainty is essential to guarantee that the outcomes of community land management receive clear protection and are not easily contested.

At the same time, the dualism between the Basic Agrarian Law and the Forestry Law has created legal uncertainty, particularly for rural communities who have historically controlled and managed land that is administratively classified as forest areas. From the perspective of *hifz al-mal*, this regulatory inconsistency weakens the protection of the results of community efforts. Therefore, policy reform must be directed toward harmonizing agrarian and forestry regulations in order to avoid overlapping authority. Land historically managed by communities should be considered within agrarian reform mechanisms that are simpler and more transparent. Such harmonization can be achieved through revisions of laws and regulations, as well as strengthening implementing regulations that clarify procedures for the release or alteration of forest area status. This approach would provide stronger guarantees regarding the rights to the benefits derived from land management.

Furthermore, land tenure issues in forest areas are frequently hindered by lengthy and complex bureaucratic procedures. The acceleration of land tenure verification and dispute resolution, as mandated in Presidential Regulation No. 88 of 2017, needs to be optimized to prevent communities from facing prolonged uncertainty. Social forestry programs should also be accompanied by concrete assistance and empowerment measures. Despite regulatory adjustments following the enactment of the Job Creation Law, the settlement of agrarian conflicts in forest areas continues to face structural obstacles, including bureaucratic inefficiency, limited human resource capacity, and complicated administrative procedures. Within the framework of *hifz al-mal*, simplifying and accelerating these settlement mechanisms is crucial to guarantee the economic security of communities over the land they have long managed.

In addition, the reconstruction of forest land tenure policies in Ngadirenggo Village must also be oriented toward sustainable development by balancing economic, social, and environmental dimensions. Economic sustainability requires that communities not merely become objects of policy, but active subjects in forest management, thereby encouraging inclusive economic development without damaging ecosystems. Social sustainability is closely related to reducing conflict and improving the welfare of village communities through clearer rights recognition and fairer benefit distribution. Meanwhile, environmental sustainability emphasizes that local communities are important stakeholders in maintaining forest preservation through participatory and community-based management approaches. Through this orientation, forest land governance can create a more balanced relationship between legal certainty, social justice, community welfare, and ecological sustainability.²⁶

Economic sustainability demands that communities not only be the object of policy, but also active subjects in forest management. This involvement can encourage inclusive

²⁶ Achmad Miftah Farid et al., "Perhutanan Sosial Sebagai Alternatif Solusi Meminimalisasi Deforestasi Di Kulonprogo, Daerah Istimewa Yogyakarta," *Bina Hukum Lingkungan* 7, no. 1 (2022): 130-49, <https://doi.org/10.24970/bhl.v7i1.305>.

economic development without damaging ecosystems.²⁷ From this perspective, *hifz al-mal*, economic sustainability means there is a guarantee that the results of community efforts remain protected and can be utilized fairly.

Social sustainability relates to reducing conflict and improving the well-being of village communities in forest areas. Certainty of rights and clarity of benefit distribution will strengthen social stability and minimize the potential for conflict.

Environmental sustainability emphasizes that communities are crucial stakeholders in maintaining forest sustainability.²⁸ Participatory community-based management can actually strengthen ecosystem protection, ensuring that environmental benefits can be enjoyed by future generations.²⁹

Normatively, reformulation of forest land tenure policies needs to be outlined in clearer regulations and provide certainty of management rights for communities. Revising the Forestry Law and the Basic Agrarian Law is a long-term strategic step, while in the short term, the government can issue more accommodating regulations, such as extending the period of social forestry permits, prioritizing local communities over large investors, and simplifying procedures for releasing forest areas for agrarian reform. These steps align with the principles of *hifz al-mal* because it ensures the sustainability of community business results and minimizes losses due to legal uncertainty. In addition, the application of the principle good governance Participation, transparency, justice, the rule of law, and accountability must be strengthened in forest governance. Active involvement of

²⁷ Wildan Febrian et al., "Pengelolaan Sumber Daya Alam Kehutanan Dan Keberlanjutan Terhadap Ekonomi Di Bukit Barisan," *Jurnal Media Akademik* 2, no. 11 (2024): 2-7.

²⁸ L A Susandi, E P Purnomo, and Alfat Ridho, "Perlindungan Ekosistem Melalui Pemberdayaan Masyarakat Sekitar Taman Nasional Gunung Merapi Daerah Istimewa Yogyakarta," *Jurnal Ilmiah Pariwisata* 26, no. 1 (2021): 111-22, <https://doi.org/10.30647/jip.v26i1.1376>. CITATIONS.

²⁹ Fazl Mawla Febrian and Irwan Triadi, "Peran Hukum Tata Negara Dalam Mewujudkan Keberlanjutan Pengelolaan Hutan Dan Ekosistemnya," *Indonesian Journal of Law and Justice* 1, no. 4 (2024): 10, <https://doi.org/10.47134/ijlj.v1i4.2629>.

village communities in decision-making processes is crucial to prevent unequal access and prolonged conflict.

From a progressive legal perspective, this policy update emphasizes that the law must provide substantive justice, not merely formal certainty. Ultimately, policy reform must guarantee three key elements: legal certainty for village communities, fairness in resource distribution, and ecological sustainability. With this approach, forest management in Ngadirenggo Village can move toward a more equitable and sustainable system.

Conclusion

Forest land management in Indonesia is scattered across various laws and regulations, but the agrarian and forestry regimes have not been fully integrated. This dualism creates overlapping authority and legal uncertainty, directly impacting communities living in and dependent on forest areas. The conflict in Ngadirenggo Village, Wlingi District, Blitar Regency, demonstrates that forest land ownership is not merely an administrative issue, but also concerns ensuring the survival and protection of community economic rights.

In line with the focus of this research, the reconstruction of forest land tenure policies needs to be directed at strengthening the recognition of local community rights, harmonizing agrarian and forestry regulations, strengthening conflict resolution mechanisms, and orienting policies toward sustainable development. From the perspective of *hifz al-mal*, such policies must be capable of providing certainty and protection for the results of community efforts in order to achieve social justice, legal certainty, and ecological sustainability in the management of forest areas in Ngadirenggo Village. However, this study is limited to an empirical juridical analysis conducted in one village area, namely Ngadirenggo Village, Wlingi District, Blitar Regency, so the findings may not fully represent the broader dynamics of forest land conflicts in other regions of Indonesia. In addition, this research primarily focuses on the perspective of *maqashid sharia*, particularly *hifz al-mal*, and therefore has not comprehensively explored other socio-political, economic, and environmental approaches that may also influence forest land governance policies.

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