

THE RESTRICTION OF AGRICULTURAL LAND TENURE FOR INDIVIDUALS IN NATIONAL LAND LAW UNDER ISLAMIC LAW PERSPECTIVE

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ABSTRACT

The aims of this study were to find a philosophical basis and the legal principles in restricting agricultural land tenure for individuals under Islamic law perspective. It is also to analyze the legal arrangement of the agricultural land ceiling for individuals in the National Land Law. This research was categorized as a normative research at which it applied a statutory approach, a conceptual approach, and a comparative approach. The research found that: First, the basis philosophy of the agricultural land tenure restriction for individuals in the National Land Law is to overcome and prevent control of agricultural land by a small group of farmers (landlords) which will hamper the realization of the prosperity of the people. In the perspective of Islamic Law, this is in line with the theory of the objectives of Islamic Law (*maqashid syariah*), namely in order to preserve the soul (*hifz al nafs*) and preserve property (*hifz al maal*). Second, legal principles in restricting the agricultural land tenure for individuals include general principles and specific principles. Third, Legal arrangements for restriction the ceiling of agricultural land for individuals in Law no. 56 Prp 1960 has not fully heeded the elements that rely on Islamic law as mandated in the UUPA. It is important to make a new law to replace Law no. 56 Prp 1960 which regulates the epistemology of agricultural land tenure restriction for individuals, is adjusted to the objectives of Islamic Law (*maqashid syariah*) based on the level of interest and comply with the reality principles, emergency principles, *maslahah* principles and priority principles.

Keywords: restriction, agricultural land tenure, and individual