

# The Legal Politics of Environmental Conservation as an Effort to Maintain Natural Health

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**Abstract:** *The environment is an important component of human life and is one main study in Islamic economic politics and legal politics in Indonesia. This study discusses the concept of environmental conservation in the perspective of Islamic economic politics and legal politics in Indonesia. This study is a qualitative research using the library research method. The results of this study have proven that environmental conservation is essential for humans to create benefits for people and avoid harm due to environmental damage. In Islamic economic politics, the rules on environmental conservation are found in the fiqh of environment, which is a standard reference for all Muslims. In Indonesia, such rules are regulated in the Law No. 32 of 2009 concerning the environment.*

**Keywords:** *Environmental Conservation, Islamic Political Economy, Indonesia*

## 1. INTRODUCTION

Environmental issues are crucial to be debated again especially with a lot of natural disasters that occur now, more or less due to the actions of a few people who do not care about environmental conservation. Currently, the environmental crisis has reached a stage that threatens the existence of the earth as a place for humans and other creatures. Fundamentally-philosophically, the crisis occurs based on the error of the way humans view themselves, nature, and the whole ecosystem [1]. Therefore, debating environmental issues becomes a necessity in order to be understood and applied in everyday life, which will produce benefits for humans themselves and the environment and is in line with God's rules.

Islam has provided complete guidance that natural resources and the environment are the carrying capacity of the human life environment. Allah SWT has entrusted this nature to be used together and as well as possible (QS. Thaha [20]: 6, Ali Imran [3]: 120, dan Al-Baqarah [2]: 225, Al-Hajj [22]: 65 dan Al-Jatsiyah [45]: 13). In fact, there are about 750 verses of the Al-Qur'an that talk about the material, the nature and its phenomena, and which command humans to know and utilize the nature. Therefore, environmental conservation is an ecological necessity that is unnegotiable of anyone from anywhere and at any time.

Actually, the community and the government have done a lot of efforts to save the environment by raising the awareness of the people and stakeholders through education and training, government regulations, laws and law enforcement. However, there have not been

any significant results yet and the results cannot yet compensate for the rate of environmental damage that occurs [2].

Humans are the main subject of environmental conservation. There is a mutualistic relationship between humans and the environment and based on *sunatullah*, humans need the environment and vice versa. The environment is needed by humans as a living space. Humans cannot live outside the environment. Factually, the environment provides facilities for human life in the form of adequate carrying capacity of natural resources and the environment. On the other hand, humans as rational beings are considered capable of managing the environment responsibly. Sustainable management of the environment will enhance the quality of environmental sustainability. Thus, environmental conservation requires human positive participation.

Thus, the study of the concept of environmental conservation in the perspective of Islamic economic politics and legal politics in Indonesia is very important, especially in seeing the position of the environment as part of human life. A good environment will produce goodness for humans and vice versa. It is expected that this study produces constructive solutions to various problems that exist in environmental conservation and make a positive contribution to the development of environmental conservation studies in the political economy of Islam.

## 2. DEFINITION OF ENVIRONMENTAL CONSERVATION

Environmental conservation is derived from the word *conserve*, which means maintaining something in its original state. By adding suffix *-tion*, it becomes conservation, which means the process, method, act of preserving, protection from damage and destruction, conservation, and the management of natural resources that guarantees their wise use and the continuity of supplies while maintaining and improving their quality, values and diversity.

Then, the environment is all external factors that affect an organism; these factors can be living organisms (biotic factor) or non-living variables (abiotic factor). According to RM. Gatot P. Soemartono, the environment is all objects, conditions, conditions and influences in the place we live in that affect living things, including human life. Environmental space limits in this sense can be very broad, but practically limited to factors that can be reached by humans, such as natural, political, economic, social and other factors. Meanwhile, according to Munadjat Danusaputro, the environment or living environment is all objects, powers and conditions, including human beings and their actions, which are in the place humans live in and affect the survival and welfare of humans and other living creatures.

Environmental conservation in Arabic is known as *fiqh* (jurisprudence) of environment (*fiqhul bi'ah*). *Fiqh* of environment (*fiqhul bi'ah*) is Islamic provisions derived from detailed postulates about human behaviors towards the environment to realize the benefits of the earth's population in general with the aim of keeping away various damage that occurs to the environment [3].

From the definition above, it can be implied that environmental conservation is a process or way of protecting and preserving the environment from damage or destruction, so it does not interfere with the lives of other living things, including human life. Environmental conservation in Islam is included in the study of *fiqhul bi'ah* or *fiqh* of environment, which thoroughly discusses both from the theoretical and practical aspects of how to maintain and preserve the environment so that it can be sustainable based on the guidance of Al-Qur'an and the *hadith* and other sources of law.

### 3. THE CONCEPT OF ENVIRONMENTAL CONSERVATION IN ISLAMIC POLITICAL ECONOMY PERSPECTIVE

Among the world religions, Islam is the most widely discussed religion of nature, its use and maintenance, which forbids damaging and polluting the environment. There are a total of 750 verses of Al-Qur'an that talks about natural phenomena, such as the issues of animals, plants, soil, water and air, in addition to hundreds of authentic *hadiths*, and *ijtihad* of the Companions and *Tabiin* [4]. The term *environment* in al-Qur'an is mentioned in various forms, such as *al-'alamin* (species), *al-sama'* (space and time), *al-ard* (earth) and *al-bi'ah* (environment).

In principle, this variation illustrates the spirit of *rahmatan li al-'alamin*, where the environment is affiliated not only to the earth, but also to all of nature, such as planet earth, space and outer space. This concept certainly refers to the importance of maintaining the balance of ecosystems on earth and at the same time also having a relationship with ecosystems that exist outside. The duty of preserving the environment is for not only the earth but also other planetary environments. [5]

The conception of environmental conservation (*ibqa 'al-bay'ah*) is stated completely and explicitly in many verses of the Al-Qur'an, among others; surah Luqman [31]: 20, surah al-Jatsiyah [45]: 13, surah al-An'am [6]: 38, surah al-Baqarah [2]: 29, dan surah al-Baqarah [2]: 164. The five surahs lead humans to be able to hold the three mandates from Allah in the context of the environment (the universe). The first is *al-Intifa'*, where Allah SWT allows humans to take advantage of and utilize natural products as well as possible for their prosperity and benefit (QS. Al-An'am [6]: 165, Ali Imran [3]: 191, and Al-Israa' [17]: 26-27).

The second is *al-I'tibar*, where humans are required to constantly think about and explore the secrets behind the creation of Allah SWT while being able to take lessons from various natural events and phenomena to increase their piety of Allah SWT (QS. Yunus [10]: 101, Ali Imran [3]: 191, and Shaad [38]: 27). The third is *al-Islah*, where humans are required to continuously maintain and preserve the environment for both themselves and other creatures because the future of the environment depends on how humans manage and preserve it. The Al-Qur'an emphasizes such attitudes, both explicitly and implicitly, in the form of commands to preserve the nature (QS. Al-Rum [30]: 41), the creation of the sun, earth, sky, moon and planets (outer space) (QS. Nuh [71]: 15-16), solar rotation (QS. Yasin [36]: 38), natural phenomena and their processes of creation (QS.al-Anbiya [21]: 33), the creation of the moon (QS. Luqman [31]: 29), the creation of outer space (QS. Ath-Thariq [86]: 11), and the creation of the earth for living things (QS. Ar-Rahman [55]: 10), as well as the creation of living things that consist of humans, animals and plants as a series of ecology and form an ecosystem that influences each other for survival (QS. Al-Qashash [28]: 77, Ali Imran [3]: 190-191, dan Hud [11]: 7). [6]

Al-Qur'an forbids damaging to nature and the cause of the damage is the characters of damaging (QS. Al-A'raf [7]: 56,74; QS. al-Baqarah [2]: 60), cheating (QS. Hud [11]: 85; QS. al-Syura [42]: 181-183), disorientation/imbalance and extravagance (Surah al-Isra [17]: 25-26; Q.S. al-An'am; [6]: 141; Q.S. al-A'raf [7]: 31; QS. al-Rahman [55]: 7-9; and Q.S. al-Furqan [25]: 67), reducing/changing (QS. Al-Nisa [4]: 118-119), and impulses of lust (QS. Muhammad [47]: 22; QS. al-An'am [6]: 123; and Q.S. al-Isra' [17]: 16). [4]

Based on Islamic economic politics, preserving the environment is very important for the benefits and lives of people. A good environmental policy will affect the good of humans. Policy in the human view is parallel with the policy in God's view because every sharia law is in line with human reason and the vice versa. [5] Then, the implementation of environmental conservation can be done through three domains of activities, namely:

First, protecting the life support system (QS. Al-Baqarah [2]: 148, al-Maidah [5]: 32, al-Israa' [17]: 84, al-Qalam [68]: 49, and al-Baqarah [2]: 26). The environment is a resource that can be utilized by humans to meet various needs of life (QS. Al-Mulk [67]: Al-Mulk [67]: 15). The environment as a resource has limitations, both in the form of regeneration and assimilation. As long as the exploitation or use is still reasonable, the environment as a human life buffer can still be used sustainably. Environmental conservation is absolutely necessary by reducing environmental risks and increasing environmental benefits. This is as the main task of human being revealed by Allah SWT on the earth, namely as the Caliph who has the responsibility to maintain and preserve the natural surroundings for the human prosperity (QS. Huud [11]: 61).

Humans as caliphs have two meanings, namely as the representatives of God (QS. Al-Baqarah [2]: 30) who tend to be aggressive and active and at the same time servants of God who are passive in the real sense (QS. Al-A'raf [7]: 172). The plus-minus (activeness-passiveness) of humans are accompanied by rights and responsibilities as to the various mandates that are charged to them, including in the environmental context. [7] Human relations as caliphs on earth to the environment must be based on the principle of the appropriate use and keeping away from damage. Environmental management awareness as outlined by Islamic law needs to be instilled in every Muslim and is a shared responsibility, especially of the government as a regulator in order to maintain and preserve the environment and anticipate the impact of environmental damage.

These goals can be achieved if humans do not over exploit the universe, resulting in damage and destruction. One form of environmental destruction is cutting down trees, clearing forests, throwing garbage and waste into rivers, burning plantation areas, overusing insecticide, producing smoke from motor vehicles and factories, the greenhouse effect and so on, which cause flash floods, haze, global warming, water, air and soil pollution, clean water crises, and climate change that will lead to a major threat to the conservation of the nature and biodiversity throughout the world. God strongly condemns these actions and threatens them in return in proportion to what is done.

Second, conservation of biodiversity. Biodiversity can be interpreted as a variation of all kinds and diversity of all creations of Allah SWT on earth, consisting of both animals (QS. Al-An'am [6]: 142, and al-Fathir [35]: 28) and plants (QS. Al-An'am [6]: 141). In the Islamic conception of diversity, this diversity is the *sunatullah*, which must be kept in balance, otherwise there will be disasters and calamities affecting humans and all other beings.

There are many verses of the Al-Qur'an that give great attention to the importance of preserving and paying attention to biodiversity. Even, it becomes a fundamental obligation of humans (Surah al-An'am [6]: 41; al-Fathir [35]: 27-28 and al-Maidah [5]: 32), as well as the highest divine gift for them (QS. Al-Rahman [55]: 11-13, and al-Waqi'ah [56]: 11-13, dan al-Waqi'ah [56]: 28-33). We must not let this diversity be damaged only because of the will of lust, resulting in disasters and tortures that harm humans themselves (QS. Rum [31]: 41). The goal is nothing but beauty (QS. Al-Kahfi [18]: 7) and happiness (Al-Maidah [5]: 96) for humans as well as the main supporting elements of the success or failure of the duty of human caliphate on earth.

It is time to establish good relations not only with God (*habl min Allah*), but also with humans (*habl min al-nas*). It is also important to build good relations with the environment (*habl ma'a al-bi'ah*). With these three relations, harmony will be created where Allah SWT as the creator, humans as the caliph and the earth (environment) as a place to perform and carry out the mission of the caliphate (QS. Al'A'raf [7]: 56 and Al-Israa' [17]: 61).

Yusuf Qarhdawy states that environmental conservation is an effort to create benefits and prevent harms. This is in line with the *maqasid al-syari'ah* (the purpose of religious law), which is formulated in *kulliyat al-khams*, namely: *hifzu al-nafs* (protecting souls), *hifzual-aql*

(protecting mind), *hifzu al-mal* (protecting wealth/property), *hifzu al-nasb* (protecting offspring), and *hifzu al-din* (protecting religion). Protecting the environment, according to him, is a demand to protect the five objectives of the sharia. Thus, all behaviors that lead to the destruction of the environment mean acts of threatening life, mind, property, *nasab*, and religion. [3]

Thus, the Islamic conception of the duty to preserve the environment is the same as the obligation to preserve the five main objectives of religion. It can be simply said that the environment is a prerequisite for realizing the main objectives of religion. Keeping the prayer is one form of manifestation of maintaining religion. A clean environment as an infrastructure for conducting prayers is also one factor that determines the validity of one's prayer. If the environment is polluted, either in the form of dirty water for ablution or place to perform prayers and so on, then the maintenance of religion has been neglected at the same time. The existence of the environment as a prerequisite for maintaining the main objectives of religion can be read from the *Fiqh* Method, which explains "*maa la yatimmu al-wajib illa bihi fahuwa al-wajib*" (when a compulsory cannot be done without a thing, it then becomes compulsory), which means to preserve the environment is mandatory in order to preserve religion. [5]

Third, the sustainable use of natural resources and the environment. Islamic economic politics has provided a clear boundary to each of its followers that the environment is a system consisting of components that work regularly as a whole. The unit consists of biotic elements (humans, animals and plants) and abiotics (air, water, soil, climate, etc.) (QS. Al-Hijr [15]: 19-20). Therefore, in order to be able to use natural resources and the environment in a sustainable manner, everyone must be able to do the following: (1) Respect for nature (QS. Al-Anbiya' [21]: 107; Luqman [31]: 20; and Al-Ahqof [46]: 3). (2) Fully responsible for the management and use of nature (QS. Al-Baqarah [2]: 30; and al-Fathir [35]: 39). (3) Exploiting within a reasonable limit as regulated in sharia (QS. Al-A'raaf [7]: 56).

Ali Yafi sees the obligation to maintain the environment as a form of theorization of *al-maslahah* (human welfare). Islam is a religion built based on benefits. Every doctrine and value revealed in the form of the Qur'anic text is always oriented to the benefit of humans. [5] Islamic scholars basically formulated a standard concept of environmental conservation in the form of *fiqh* of environment. It is directed to forms of thought jurisprudence that has a clear side to the environment. The *fiqh* of environment assumes that *fiqh* is *al-ahkam al'amaliyah* (law of behavior), which is responsible for every single human behavior so that it always runs within the framework of virtues and does not interfere with other parties (the environment) for the benefits of all. [8]

The issue of environmental conservation in the contemporary studies of scholars is included in the concepts of eco-sharia, eco-theology and eco-philosophy. Normatively, eco-sharia is related to Islamic religious values in protecting the environment. This concept is related to the concepts of eco-theology and eco-philosophy. Both become an integral part in environmental conservation studies. Eco-theology is relevant because monotheism (theology) is the basis or basic framework for its overall views and worldview. Life is considered beneficial if it is able to translate the meaning of monotheism into the reality, which is to achieve and unite multiplicity and frame of unity.

Eco-theology sees that environmental conservation is not only as a way to defend civilization, but also as a tool to cure the roots of an ecological crisis that no longer lies in technology but in the faith and value structures of people that control it. [9] In this context, efforts to preserve the environment are a form of one's faith in God as the creator of nature. On the contrary, destructive and exploitative actions towards the environment are contrary to the values of monotheism. On the other hand, the concept of eco-philosophy is integrating the perspective of Sufism into the study of environmental conservation issues. The tradition of reflective Sufism teachings is believed to be able to encourage to be wiser and more prudent

in interacting with the natural surroundings. Eco-philosophy is a philosophy of environmental harmony or equilibrium. [10]

In the concept of Islamic economic politics, the government has a very important role in environmental conservation because they can make regulations to force and direct each individual or community in favor of the environment. In addition, in the theory of state responsibility (*mas'uliyah ad-daulah*), the role of the state is necessary in applying Islamic teachings in the field of environmental conservation and other fields since the environment is very important for the benefits of human life and the survival of the universe. Environmental conservation is closely related to moral values. Moral values in society must be upheld through the participation of all parties and this is where the role and intervention of the state is needed to ensure and oversee the actions and attitudes of the community to be in line with Islamic law and the law made by the government. [11]

In the theory of state intervention (*at-tadakhkhul ad-daulah*), the state can intervene in the environmental field to ensure the adaptation of Islamic law related to the environment such as the state prohibiting the seizure of dead land, destruction of land not for productive activities, prohibition of improper disposal of trash, prohibitions on destroying the natural habitat of animals and other living things, and so on. This intervention is not merely adapting Islamic law which is already contained in the postulates, but fills the legal vacuum that occurs in Islamic law.

Islamic political economy knows the term *ownership*, including in the field of environment. The ownership theory always refers to the statement of the Al-Qur'an, which confirms that Allah is the owner of everything. However, there is recognition of multiownership, namely recognition of private, public and state ownership. The concept of ownership affects the concept of the use of ownership (*tasharuf al-milk*), in the sense of who is actually entitled to manage and use it and how it is shaped. Utilization of ownership is the ways in which someone treats his/her property. For this reason, in the context of the environment, every individual and state has rights and obligations and is responsible for managing and utilizing the environment, including maintaining its sustainability so that it does not damage and still produces something for humans.

From the various explanations above, it can be understood that environmental conservation is highly regulated in the Islamic political economy. Even, Islam as a religion has provided a complete and perfect guidance on how to regulate and preserve the environment. This can be seen clearly with the many verses of the Al-Qur'an, which regulate it. Therefore, it is time for all stakeholders to really pay attention to this environmental problem because it is very closely related to the survival of humans and other creatures on earth.

#### **4. LEGAL POLITICS OF ENVIRONMENTAL CONSERVATION IN INDONESIA**

Every country has a legal politics as a basic policy for state administrators to determine the direction, form and content of the law to be formed. [12] Legal politics can be simply formulated as a legal policy that will or has been implemented nationally by the government, including an understanding of how politics affect the law by looking at the configuration of powers behind the making and enforcement of the law. [13] In other words, legal politics is a government policy regarding which law will be defended, replaced, revised and eliminated. Legal politics is closely related to ideals and hopes, so there must be a legal vision. With the vision of the law, the format of the form and content of the law which is considered capable of realizing the legal objectives as a continuation of the state's goals can be determined. [14]

National legal politics have established Indonesia as the rule of law (*rechtsstaat*), as regulated in Article 1 paragraph (3) of the 1945 Constitution. The concept of the rule of law refers to the soul of the nation (*volkgeist*) contained in the Pancasila as the ideals of the Indonesian nation's law and the Proclamation of Independence as the source of all sources of law and constitutional buffer. [15] Therefore, in the context of environmental conservation, these rules always refer to the applicable laws and regulations. [11]

The concept of environmental conservation in Indonesia refers to Law Number 4 of 1982 concerning Basic Provisions for Environmental Management (hereinafter referred to as UUPPLH) and amended by Law Number 23 of 1997 concerning Environmental Management and replaced by Law Number 32 of 2009 with a reason to better guarantee legal certainty and provide protection for the right of everyone to get a good and healthy environment through the imposition of criminal sanctions that are quite severe in Law Number 32 of 2009. [16] In addition, there are Law No. 18 of 2008 concerning Waste management and Law No. 19 of 2009 concerning Ratification of the Stockholm Convention on Persistent Organics Pollutants. [17]

According to Law No. 32 of 2009, environmental conservation is a unity of space with all objects, powers, conditions, and living things, including humans and their behaviors, which affect the nature itself, the survival of life, and the welfare of humans and other living things. [18] Environmental conservation is a juridical instrumentarium for environmental management. In its implementation, government officials need to pay attention to general principles of good governance. This is intended so that the implementation of its policies does not deviate from the objectives of environmental management. [3]

In addition, it is necessary to control and prevent deviations from the environment by the community, through norms and values that apply. Control and prevention efforts can be done through informal moral and religious education in society. Therefore, people will have the motivation of environmental awareness. Meanwhile, in the law enforcement of environmental crimes such as illegal logging, illegal fishing, illegal mining, etc., will be more optimal if it is done not only using the criminal law instruments, but also a religiosity approach (Islamic economic politics). [19]

## 5. CONCLUSION

From the discussion above, we can conclude that environmental conservation is a fundamental necessity for all humans. It must be supported by a variety of policies derived from not only religious rules, but also other rules to create benefits and prevent harms arising from environmental damage. In Islamic economic politics, the rules on environmental conservation are found in the *fiqh* of environment, which is a standard reference for all Muslims. In addition, the state has a very crucial role in environmental conservation, especially when viewed from the aspects of state responsibility theory (*mas'uliyah ad-daulah*) and state intervention theory (*at-tadakhkhul ad-daulah*). The state can impose its will in the environmental field with the aim of ensuring the adaptation of the Islamic law related to the environment, so that the environment is preserved and is beneficial to all living things. On one hand, in legal politics in Indonesia, environmental conservation is regulated in the Law No. 32 of 2009 concerning the environment.

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