STRENGTHENING ECO _FIQH_: AN INTEGRATION OF TEXTS AND _MASLAHA_ ON ENVIRONMENTAL IMPACT ANALYSIS

Anwar Sadat, Muhammad Yusuf
Sekolah Tinggi Agama Islam Negeri Majene Sulawesi Barat | Totoli, Banggai, Kabupaten Majene, Sulawesi Barat | anwarsadat21@yahoo.co.id.
UIN Alauddin Makassar | Jl. Sultan Alauddin No.63, Romangpolong, Kec. Somba Opu, Kabupaten Gowa, Sulawesi Selatan | muhammadyusuf@uin-alauddin.ac.id.

Abstract: This study is motivated by a belief that the true _maslaha_ and authentic texts (_hadiths_ or verses of the Quran) do not contradict each other. It is because the holy text is a guidance for mankind to reach the happiness and benefit in the world and hereafter. The concept of eco-_fiqh_ is a response to the various environmental crisis. This paper is a study on the concept of eco-_fiqh_ link up with the _maslaha_ approach and Environmental Impact Analysis (Amdal). To actualize the _maslaha_, the regulations of Environmental Impact Analysis should be obeyed. Eco-_fiqh_ provides guidelines for minimizing the impact of environmental damages. Environmental conservation is a sunnah and a doctrine of Islamic _ushuliyat_. It does not merely _hajjiyāt_ and _tahsīniyat_, but _dharūriyat_ doctrine in Islam. The concept of eco-_fiqh_ is an effort to position the doctrines of the environmental conservation on the _ushuliyat_ of Islam.

Keywords: Eco-Fiqh, Maslaha, Amdal, Ushuliyat

Introduction
The arguments for the principles of environmental conservation in the perspective of eco-_fiqh_ has recently gained popularity concerning the the critical threat of global environment. With this regard, there has been an effort to make use of _fiqh_ as an approach for exploring the analyses of Sharia pertinent to the environmental conservation as such have not been obviously
revealed, so the experts need to explain to imbue Muslims with the capacity to contribute to solution to the global environmental crisis through the reconstruction of *fiqh*. This study employs the term known as “eco-*fiqh*”, *fiqh al-bi’ah*, and *fiqh* ecology, while Mudhofir Abdullah used the term “eko-*ushul al-fiqh*”. These accords with the endeavor to empower the *fiqh* to prevent the current environmental crisis.

In previous discourses, *fiqh* only presented five bases (*kulliyatul khams*) and shariah orientation coined by Asy-Syatibi as *maqashid as-syariah* those are *hifdzul ‘aql* (maintaining mind), *hifdzunnafs* (maintaining soul), *hifdzuddin* (maintaining religion), *hifdzulmaal* (maintaining property), and *hifdzunnasl wal irdh* (maintaining the purity of the descendants and self-esteem). Yusuf al-Qordhawi added another - as the extension of *maqasid as-syariah* Asy-Syatibi - namely *hifdzul bi’ah* (preserving environment). In this context, because of being reactive, clerics are deemed late to respond to the crisis, such as the global warming. *Fiqh* is still regarded as the Islamic teaching that stresses on the relationship between humans and God and between themselves, whereas scholars in the past have laid its foundations.

The perspective on the ecological awareness featuring non-written traditional cultures sadly remains ignored by the so-called “mechanistic society.” Various environmental issues that occur today in the local, national, and global scales are mostly caused by the mismanagement of the environment. The environmental damages taking place in the sea, forests, atmosphere, water, land, and so on are caused by irresponsibility and selfishness of human behaviours. Allah firmly reminds mankind that natural destruction

---

is caused by themselves for them to return to the right path.\textsuperscript{6} All of this happens because of the absence of their responsibility and credibility regarding the environmental drawbacks. Hence, religion is of paramount importance to deal with the environmental crisis.\textsuperscript{7} The reconstruction and awareness based on religious approach are critical to attaining the intended goals.

At least, four fundamental reasons promote the conceptual development of eco-	extit{fiqh}: First, the critical condition of the environment is getting worse in either the Muslim states or global level. This requires an anticipative action from the principles of Islamic teachings as a religion of peace for the universe (rahmatan lil ‘alamin).\textsuperscript{8} Second, Muslims require a comprehensive framework regarding the perspective and ways to participate in environmental conservation. Classical jurisprudence of Islam is inadequate to address the environmental issue and has yet possessed operational guidelines on environmental conservation in the perspective and insight of modern environmental crises. Third, environmental jurisprudence has not been considered a discipline that has entered the realm of Islamic studies. Its ontological and epistemological roots are still being debated. Therefore, those are considered as a part of environmental sciences. Indeed, in \textit{fiqh muamalah} is not only related to social interaction but also environmental relation. Themes related to the environment, such as thaharah (purification), \textit{ihya al-mawat} (revive dead land), hunting law, hima’ (environmental protection), but they are still generic and ethical. Fourth, environmental jurisprudence as the law of environmental conservation based on Islamic teachings needs to be included in education programs. It is to build the awareness of environmental conservation through education and culture.\textsuperscript{9} Even, an orientalist accords with Al Jabiri, Charles J. Adam who stated that no other

\begin{itemize}
\item \textsuperscript{6} Q.S. al-Rum/ 30 : 41.
\item \textsuperscript{7}http://www.w.conervation.or.id/home.php?modul=news&catid=34&catid=239&page=g_news , diakses tanggal 1 Desember (20017).
\item \textsuperscript{8}Atho Mudzhar, “Membumikan Fikih Ramah Lingkungan” dalam Mudhofir Abdullah, \textit{Al-Qur’an dan Konservasi Lingkungan} (Jakarta: Dian Rakyat, 2010), xxx-xxxii.
\item \textsuperscript{9}Ibid.
\end{itemize}
things are more important from the Muslims than the phrase “Islamic law”.\textsuperscript{10} Fiqh in Islam is the most fundamental aspect when it comes to the environmental conservation for the Islamic societies, not to mention that it can be a model for the human civilization if appropriately constructed and implemented.

The steps taken were initially needed to define the terms used in the Quran and to point out the meaning of environment or related aspects. Second, it traces through the book of al-Mu’jam al-Mufahras li Alfāżh al-Qur’ān al-Karīm.\textsuperscript{11} Then, the findings were identified and classified based on the chronology of the revelation. Third, it elaborates the findings based on the thematic procedures that was conceived.\textsuperscript{12} To validate the conceptual understandings, this study elaborates the existing relevant hadiths using the contextual method.\textsuperscript{13} The hadiths should be interpreted based on their characteristics, such as universal, local, and temporal. The analytical perspective used in this study was based on the ushul fiqh based on the formal verbal texts expression and mafhum muwafaqah.\textsuperscript{14} Arguments of a fortiori were analyzed using the literal interpretative method\textsuperscript{15} that were reached in manifesting the laws stipulated in Quranic verses and hadiths.

\textbf{Maslahat Approach}

Al-Qur’ān has been final including hadiths, while problems continuously undergo the dynamics every time. This is in line with the Adagium, such as the following; النصوص متناهية والوقائع غيرمتناهية, which means that the legal texts are limited in essence, while the

\textsuperscript{13} IM. Syuhudi Ismail, Hadis Nabi yang Tekstual dan Kontekstual: Telah Ma’ani al-Hdis tentang Ajaran Islam yang Universal, temporal dan Lokal (Jakarta: PT Bulan Bintang, 1994), 5.
\textsuperscript{15} Ibid., 6.
legal cases are not limited to a certain time spectrum.\textsuperscript{16} For this reason, it is of paramount importance to discuss the theory of \textit{maslaha} for it is impossible to fundamentally oppose the holy texts. Najamuddin at-Tufi (w.716H/1318M) and Abu Ishaq asy-Syatibi (W. 790H/1388 M)\textsuperscript{17} are the prominent figures concerning \textit{Maslaha}. The two figures’ methods of thinking and other \textit{fiqh} scholars are critical in that the theory being developed differs from that of established by other ushul scholars.

According to At-Tufi, \textit{maslaha} derives from the meaning of hadith: “\textit{لاضرر ولاضرر}”, “it is not allowed to be disadvantageous and to disadvantage others”\textsuperscript{18}, authentic hadith narrated by Imam Malik and Imam Ahmad. Al-Hakim opined that this hadith is valid based on the criteria of Imam Muslim. It becomes the basis of at-Tufi’s arguments to embrace the four principles of \textit{maslaha}, which makes him differ from other scholars who divide \textit{maslaha} into three.\textsuperscript{19} For at-Tufi, the division is not important because the objective of Muslim societies is the positive benefits, so all forms of \textit{maslaha} either supported by the holy texts or not should be achieved without detailed descriptions.\textsuperscript{20} The four principles above include 1) Free reasoning determines the benefits and drawbacks, especially in terms of muamalah and custom. This implies that it is fairly enough to use logic to determine whether certain things belong to \textit{maslaha} or not. 2) \textit{Maslaha} is an independent proposition in determining laws. For this reason, to justify \textit{maslaha}, supporting legal laws are not needed because it is solely based on opinions. 3) \textit{Maslaha} only applies to the issues related to muamalah and customs.

\textsuperscript{17} Rusdaya Basri, “Pandangan At-Tufi dan Asy-Syatibi tentang Maslahat: Studi Analisis Perbandingan” dalam \textit{Jurnal Hukum Diktum}, Volume 9, Nomor 2, (2011), 177.
\textsuperscript{21} Abdul Azis Dahlan (ed.), \textit{Ensiiklopedi Hukum Islam}, Jilid 4, 1147.
As for the matter of worship determined by Syarak (Islamic ritual law), such as four rak’ah zuhr prayer, fasting for a month, and tawaf is done seven times, it does not belong to the object of *maslaha* because the problems like this are the right of Almighty God. It is the prerogative of the God to judge with regard to religious rituals or worships, while social interaction and customs are directly related to the benefits to mankind. 4) *Maslaha* is the strongest argument of syarak. That is why, he also states that if the texts or consensus of ulema are contrary to *maslaha*, the latter is preferable through *takhsīs nash* tersebut (specialty of law) and *bayan* (details and description of law hukum). This shows that *maslaha* is preferably used over holy texts when dealing with muamala (social interaction) issues instead of rituals.

Asy-Syathibi is regarded as ‘the founder of maqāshid asy-syarī’ah’ because of his roles in discussing the topic systematically in his book *al-Muwāfaqat* although he is not the first one who proposes the topic. Al-Juwaini (d. 478 H), better known as Imam Haramain, has brought this issue on the table by proposing the idea of making maqāshid asy-syarī’ah as a universal value and elevating it from the *zhanny* (prejudice) to the *qath’iy* (certainty) level. This was motivated by his concern about the decline of social civilization, especially Islamic scholars and politicians at the time. Most Syafi’iyah scholars and some experts at that time did say that *maslaha* can only be accepted if there is a basic text. If the benefit is contrary to the text, it should not be used.

It is similar to the classical ulema of Ushul *fiqh*. Hanafi discussed *maqāshid asy-syarī’ah* by presenting the issue of *Maslaha*.

---

24 Wael B. Hallaq, *a history of Islamic Legal Theories; An Introduction to Sunni Ushul Fiqh* (Cambridge: Cambridge University, 1997), 78.
Like asy-Syāthibi, Hanafi states that upholding the *Maslaha* is the basis of Shariah. He also categorized it into parts, namely *al-dharūriyat, al-hajjiyāt* and *al-tahsīniyat.* He also provided four phases of *maqashid al-Syarī‘ah*, namely determining the concept or basis of shariah in the first phase; in this phase, he described the position of *Maslaha* as the basic conditions, in this case faith as the primary foundation because it becomes the basis for the presence of shariah not as the perfection. Second, the phase of determining the understanding of shariah; in this phase, he advocates that there should be a source of shariah to achieve its goals in that the *Maslaha* which is the purpose of the shariah will not be attained in the absence of clear understanding of the concept. Third, the phase of imposition (*taklīf*); this requires an agreement of someone who willing to realize the *Maslaha*. *Taklīf* (obligation) only applies to mentally healthy individuals because mind is a means for understanding the shariah. Hence, it becomes the requirement of *taklīf.* Fourth, the phase of implementing maqashid asy-ṣyāri‘ (the purposes of the shariah law). Its application can be either related to the rituals of *mahdīlah* (holistic rituals), which means that *maslahah* has to be achieved both within the private and public setting. He cited al-Syatibi who stated that the rituals that are performed for *mukallaf* are basically and essentially the manifestation of devotion without concerning the merits, while any rituals related to traditions or habits should concern with the benefits or merits.

Hanafi’s perspectives the above, *maqāshid asy-ṣyāri‘ah* accords with that of asy-Syāthibi. Asy-Syāthibi points out that there are four fundamentally determining elements. First, the shariah is maintained to preserve and protect the importance and benefit of the religion. Second, it is implemented to be interpreted and contemplated by mankind. Third, the provision of *taklīf* elements, obliging the religious laws on the people with reference to the

---

27 Ibid., 489.
28 Ibid., 509.
29 Ibid., 486.
hadith that states Allah does not burden mankind over their ability and willingness. Fourth, releasing the mukallaf from the enforcement of desire.\(^{31}\) All the four elements should be adhered to the objectives of applied shariah.

Asy-Syātibī, when discussing maslaha in the context of maqāshid asy-syari’ah, argued that the main objectives for stipulating laws (Syari’) are tahqiq mashālih al-khalq (realizing the prosperity of all creatures), and the obliged shariah is intended to preserve maqāshid asy-syari’ah.\(^{32}\) In his study, al-Raisuni advocates that al-maqāshid of Syatibi were based on two principles; first, causation and enumeration of shariah (ta’līf) by taking maslaha and refusing mafsadat. Second, al-maqāshid as the inductive product becomes the fundamental endeavor pertinent to the cases that remain unaddressed by the holy texts and qiyas (deductive analogy).\(^{33}\)

Some ushul fiqh theories with the emphasis on the maqāshid asy-syari’ah and its benefits can pave the way to see and position the eco-fiqh as the essential part (dharūrī) of Islamic law integral the government policy in order to control various environmental damages which are committed by an individual or a group of people. Those must be seen as a crime against the role of humans as caliphs on the Earth and as a rahmatan lil ’alamin.

**Eco-Fiqh: The basis for environmental management**

The essence of fiqh law is actually maslaha. Ushūl fiqh in Islamic scientific tradition is the main principle used by scholars to understand the intended meaning of the Qur’an and hadith. Any unclear contents of both encourage Islamic scholars to establish a certain methodology to avoid the use of arbitrary ways in interpreting them.\(^{34}\) Imam al-Shafī‘ī, for example, wrote al-Risālah - which is the first ushūl work in the history of Islam – was intended

---

\(^{31}\) Al-Syātibī, al-Muwāfaqat fī Ushūl al-Syarī‘ah, Juz II, 300.

\(^{32}\)Muhammad Khalid Mas’ud, Shatibi’s of Islamic Law (Islamabad: Islamic Research Institute, 1999), 151.


\(^{34}\) Muhammad Abu Zahrah, Ushul al-Fiqh (Kairo: Dr al-Fikr, t.th.), 10.
to overcome the problems of arbitrary *istimbâth*, any unbound or free law adopted during his time.\(^{35}\) **Eco-ushûl al-fiqh** is used to promote the capacity of the Islamic law or ethics on the environmental conservation issues.

Yusuf al-Qardhawi has proposed various thoughts regarding the environment as evidenced in his work entitled *Ri’ayat al-Bi’ah fî Shari’ah al-Islam* which has been translated into Indonesian language, *Islam Agama Ramah Lingkungan*.\(^{36}\) In his work, he delineated that the core of environmental problems is moral or ethics. The most effective solution must rely on human morality based on religion, namely by revitalizing moral values, justice, kindness, compassion, hospitality, not egoism.\(^{37}\) **Eco-Fiqh** is the first coined by the scholar above emphasized the aspects of religious ethics. His thoughts on the environmental ethics can also be seen from the perspective of environmental ethics theory. His views differ from the existing environmental ethical theories, such as anthropocentrism, biocentrism, eco-centrism, and eco-feminism, all of which include ethics deriving from philosophical ethics. Environmental ethics based on religious understanding and teaching are called eco-theology. Al-Qaradhawi’s thinking which is regarding environmental ethics originates from the roots of his Islamic thought, stemming from Islamic values and teachings.\(^{38}\) Synthesizing his thoughts regarding the religious Islamic ethics with his concepts of ecology in general may be called “eco-theology”. His perspective belongs to the environmental ethics with the typology of *Islamic eco-religious*, the environmental ethics stemming from Islam.

On the other hand, Ali Yafie stresses on the development of *maqāshid al-syarî’ah* to insist the importance of maintaining the

---

\(^{35}\) Muna Abu al-Fadhil, *Nahwa Manhajiyyt...*, 272-278.


balance of ecosystem. As the caliph on the planet Earth, the duty of the people is to manage and preserve nature. That is to play a major role in maintaining the balance of the ecosystem. If it is maintained, humans will find it more easily to meet their needs. All the components in the ecosystem are noble and must be preserved. In line with maintaining the ecosystem, humans have to protect all living creatures on this Earth because they are also beneficial accordingly in that they are not to be hunted excessively. Humans should make use and manage the natural resources. Drawing on various discourses of eco-fiqh principles, most of them are related to the tasks of mankind as the caliph on earth.

In terms of orientation, eco-fiqh aims to preserve ecological sustainability. According to al-Qardhawi, it is a demand to protect the five objectives of the Shari’a. All traits leading to the destruction of the environment are equal to life-threatening acts, mind, decedents, and religion. Any destructive acts against the nature that may harm others are contradictory to the principles that were established by the experts, namely qawaid fiqhiyyah, such as:

1) Hadith-based principle لا ضرر ولا ضرار, prohibition to self-harm and of others;
2) Principle: الضرر يزال بقدر الإمكان, any harm should be perished;
3) Principle: الضرر لا يزال بضرر مثله, harm cannot be diminished by other equal harm;
4) Principle: يتحمل الضرر الأدنى لدفع الضرر الأعلى, it is allowed to do little harm and greater harm;
5) Principle: يتحمل الضرر الخاص لدفع الضرر العام, taking special harm than general harm;

40 Ibid., 180.
41 Ibid., 185.
42 Yusuf Al-Qardhawi, *Ri’ayatu Al-Bi’ah fi As-Syari’ah Al-Islamiyah* (Kairo: Dar Al-Syuruq, 2000), h. 39.
43 Ibid.
6) Principle: إذا تعارض مفاسدان روعي أعظمهما ضررا بارتكاب أخفهما; if two contradictions occur, less harmful deed can be considered\(^45\); and

7) Principle: درء المفاسد مقدم على جلب المصالح; preventing any destruction is primary taken into consideration than expecting the beneficaility.\(^46\)

Based on that, *maslaha* is a textual driven in that it is impossible for any contradictions between *maslaha* and the authentic *hadiths* or holy texts.

**Analizing Texts**

*Eco-fiqh* which is based on the principle of *maslaha* is an effort of the Islamic scholars to develop *fiqh* and formulate environmental *fiqh* for the sake of ecological piety and the manifestation of the role and position of humans as a caliph. With this regard, the Qur’an uses the *nahyi* form (*prohibition*) when guiding humans in the context of environmental conservation in many verses *Eco-fiqh*. For example, *لا تعارضوا في الأرض* ... “do not commit any harm on the planet Earth ...” and *لا تمشى في الأرض مرحا* “do not walk on Earth arrogantly ...”. The texts initially prohibit any destructive acts.

It also applies to the texts of hadith, Ibnu Hazm al-Andalusi, for instance, stated that it is impossible for authentic hadith to oppose the healthy mind. In this regard, he said *لا يتعارض بين النص* which means that it is not contradictory between the authentic texts and right logics.\(^47\) Mind is free to determine the benefits and disadvantages especially when it comes to social interaction and custom. This implies that to determine whether or not something would bring benefits or harm, mind as a reasoning tool can be reliable without relying on the existing verses or hadith.\(^48\)

---

\(^45\)Ibid.


To gain the formulation of maslaha that is in line with the authentic text, the instruments ought to be healthy minds.

Such a perspective is also adopted in the book *Min an-Nash ilā al-Wāqi’* that was authored by Hassan Hanafi. It is an integration of mind and revelation in the discussion of Islamic law. Hanafi claimed that this book is a continuation of the discussion of Islamic law that combines nash (revelation) and mind previously authored by al-Syafi’i in *al-Risālah*, al-Gazali in *al-Mustashma min ’Ilmi al-Ushul*, and Ibn Ishāq Ibrahim al-Syatibi’s *al-Muwafāqat*”.

Furthermore, Hassan Hanafi claimed that his book completes the three books that integrates minds and texts following al-Ghazali dan al-Syatibi.

With reference to the form of *nahy* (prohibition) in al-Qur’an, the Prophet provided details in various of his words, all of which refer to the protection of the mafsadah as well as to the achievement of the benefits themselves. This is echoed by the hadith as narrated by ‘Abdullah bin Hubsyi who stated: “عن عبد الله بن حبشي قال، قال رسول الله صلى الله عليه وسلم - من قطع سدة صوب الله رأسه في النار” from Abdullah bin Hubsyi, the Prophet Muhammad SAW said that anyone chopping off the tree of Bidara, Allah will put their head beneath the hell fire.

This Hadith warns the perpetrators of the risks they would take as the consequence of destructing the nature, which is sentencing to the hell. These texts are understood as another form of *nahy*, which is a prohibition on cutting down the tree, pointing to one type of three may represent the other remaining trees on Earth. That is, the ziziphus mauritiana trees are the representation of other trees that should not be cut down without any other reasons of greater benefits.

In this context, that argument is not based on explicit formal verbal expressions, but rather based on the implied expressions behind a text called *mafhūm*. The opinions of classical Islamic

---


52 Syamsul Anwar, “Argumentum a Fortiori...”, 7.
Strengthening Eco Fiqh

Jurists are based on the assumption that a linguistic expression has two aspects of reference, namely specific form and general substance. Berdasarkan itu, penyebutan secara spesifik ‘bidara’ the hadith shows the general meaning. That is, the prohibition to cut down bidara trees applies to the prohibition of cutting down other trees. Therefore, the specific reference to the ziziphus mauritiana tree in the hadith entails a general meaning. That is, banning all trees is forms of illegal logging, cutting down any trees in the absence of maslaha.

In other moment, the Prophet also gave motivation by delivering long-term benefits for natural conservationists. For example, He classified tree planting activities as alms as stated in the following hadith narrated by Anas bin Malik ra.:

عن أنس بن Malik – رضي الله عنه – قال: قال رسول الله – صلى الله عليه وسلم –: “ما من مسلم يغرس غرسا أو يزرع زرعا فيأكل منه طير أو إنسان أو بهيمة إلا كان له به صدقة”

“From Anas Rasulullah said, a Muslim who plants plantation and sowing seeds, the results of which later be consumed by other humans, birds or other animals, except those will be his or her alms.”

This hadith encourages humans to promote environmental conservation by planting productive trees. According to the hadith, planting trees is not only related to worldly benefits, but also to invest for the life after death through the environmental conservation. It does not only yield economic benefits, but also that of ukhrawi (hereafter) in the form of endless alms. This is distinctive

---

53 Mahsun, Argumen a Portiori (Mafhum Muwafaqah) dan Argumen a Contrario (Mafhum Mukhalafah): Sebuah Studi Perbandingan Hukum Islam dengan Hukum Posistif, dalam Jurnal Studi Agama, Volume 4, Nomor 1, Juni 2016, h. 56.
55 Al-Tirmizi, Sunan al-Tirmizi, hadis no. 1382, 327; al-Bukhari, al-Jami’ al-Shahih, Juz II, hadis no. 2320, 152; Muslim, Sahih Muslim, Juz III, hadis no. 1553, 1189; Ibn Hanbal, Musnad Ahmad, Juz XIX, hadis no. 12495, 479.
from the ecological theories that only synergize three aspects, namely social, economic, and ecological aspects.\(^{56}\)

Based on the rationale principles of texts (mafhūm), the form of naḥy, mentioning of bad consequences or of reward if doing the opposite, will lead to the meaning of the obligation to preserve the environment. The development, which of course always leads to economic benefits as the beneficial consequences, should be changed to prioritize full consideration of the impacts that will have on social, economic, ecological, and spiritual aspects. It is this spiritual aspect that is to some extent missing from the Environmental Impact Analysis (Amdal).

The Environmental Impact Analysis is a law that has similar characteristics to Islamic teachings that prioritize the protection of the mafsadat from the movement of development and civilization and maintain the balance of the ecosystem. A study carried out by the Ministry of Maritime Affairs and Fisheries unveiled that the 2016 Jakarta flood occurred due to environmental littering.\(^{57}\) To regulate and minimize these environmental impacts, the government has actually issued regulations of environmental impact analysis for companies that wanted to operate Indonesia. The environmental impact analysis was first coined based on the provisions contained in article 16 of Law No. 4 Year 1982 concerning Basic Provisions for Environmental Management and experiencing various changes with increasing various needs.\(^{58}\)

Initially, based on UU No. 23 Tahun 1997 regarding the Environmental Management (UUPLH), environmental impact analysis was held by a special commission from the center, but with various considerations, this regulation was replaced by PP No.27 / 1999. The major changes in it was the abolition of all central


\(^{57}\) AbdusshoCmad Buchori, Respon Atas Berbagai Masalah Kemasyarakatan Dan Keumatan (Surabaya: Majelis Ulama Jawa Timur, 2009), 169.

environmental impact analysis offices, which was replaced by one Central Appraisal Commission in the Environmental Impact Management Agency (BAPEDAL)) in the region, namely the provinces have a Regional Appraisal Commission. If the assessment is not environmentally feasible, the competent authority may reject the permit application submitted by the proponent. One thing that is emphasized more in PP No.27 / 1999 are the information disclosure and the role of the community. The government regulations related to the environmental impact analysis have a very significant influence on the sustainability of human life in particular and the entire environmental ecosystem in general.

In fact, in practice, the regulations were not well applied optimally because they are not followed by an increase understanding of the human resources of the Indonesian people pertinent to the importance of protecting the environment, not because of merely afraid of the punishments. The understanding and awareness should be based on the spiritual values, namely towards the God. The regulations regarding the environmental impact analysis is basically the prerequisite of Islamic shariah. These accords with the principles of fiqh iyah “درأ المفسد مقدم على جلب المصالح: against any destruction is prioritized than expecting benefit. Conducting the rules of the environmental impacts analysis is a proof of implementation of the rules of Islamic law. Allah and His apostles forbidden damaging the environment, and it is then revealed in detail in the form of the government regulations or detailed laws in the form of articles, which must be obeyed. This is in line with the guideline ... يَا أَيُّهَا الْمُرْسُولُ أَطِيعُوا اللَّهَ وَأَطِيعُوا الرسولَ وَأَطِيعُوا آمَنُوا أَيُّهَا الْمُرْسُولُ (O believers, obey Allah and His Apostle, and the leaders among you...” (Qs. al-Nisa/4: 59). Because the policy or regulations regarding the environmental impacts analysis accords with the

instruction of God and the messenger, then that of the leaders (regulations of government) have to be obeyed as well.

For Mujiono Abdillah, the environmental awareness consists of several levels from the ecological scientific awareness based individual. Therefore, religious approach is ideal for promoting the quality of the abovementioned awareness. Awareness should be developed within the inner hidden awareness of each individual. Changes have been addressed by the holy Qur’an as evidenced in various verses, including Q.S. al-A’raf/13: 11 "... Surely, Allah does not change the condition of community until they try to change the situation in themselves ..." M. Quraish Shihab, this verse entails the fundamental information, that the first changes are initially started by the people through the inner hidden side as the meanings implied by the word ‘anfusihim’ (themselves). Second, changes should be through a group of people as it is indicated by the plural form of noun in the verse above. The changes should be started from the changes of paradigm, perception, character building that touches the inner hidden side of the individual (anfus). The system and regulations, law, and policies are not adequate because humans themselves are the ones who decide. It is as intention of sentence ‘the man behind the gun. In the verse Q.S. al-Ra’d/13: 11 above, the term ‘anfusihim/themselves’ that indicates the inner hidden awareness of the individuals in the form of ideas or values in their mind, which are believed to be true and beneficial that may generate strong will to realize. To realize the changes, Qur’an follows the basic principles as given in the verse above.

The principle of law formulation is gradual (tadrij). First, it begins from the individual. The verse illustrates that the changes be

---

64 Muhammad Yusuf, Membentuk Karakter Melalui Pendidikan Berbasis Nilai, 10-11.
started through educational values as well as character building, which consequently form the character and expected behavior. Second, family as the minor institution in the society plays crucial role in developing mental and environmental awareness among the family members as indicated in the Qur’an verse Q.S. al-Tahrim/66: 6 that reminds the faithful to protect themselves and their family members. Third, formal education institutions either schools or universities should also play urgent roles. It would be effective for awareness development if it begins from the inner hidden side of the individual by educating students in early period of their schooling and managing this environmental awareness through education by integrating the awareness with the curriculum and all learning materials. Fourth, stipulating a regional regulation or the government regulation, so that it not only becomes the morale messages but also bound rules with sanctions that are consistent and fair for all the disobedient that will eventually immerse as the morale of the state as the plural form of the word “anfusihim”. Of course, it must be based on rules and regulations.

Conclusion

Eco-fiqh is a concept of Islamic law that related to the provisions governing human relations with their environment. It is a response to various contemporary problems tie in to the environment. It is a vital part of the Islamic legal system because the environmental destruction caused by human behavior or due to lack of concern for the environment. It is also a proof of the disobedience to the Islamic principles. In fact, the core of Islamic teachings is to guide people to the path of truth to realize the benefit for public benefit (al-maslahat al-‘ammat).

The concept of hifzh al-bi’ah (environmental conservation) is one principle of doctrines in Islam. For this reason, eco-fiqh requires hifzh al-bi’ah to be replaced and elevated to the position of adharuriyat al-sitt or al-kulliyat al-sitt. This does not completely disregard fiqh scholars view such as al-Qardhawi, Ali Yafie, Mulijono, and others. In essence, it is aimed to realize the human
task as a caliph in carrying out the universal mission of rahmatan lil ’alamin, so eco-fiqh is a necessity especially for the environmental conservation. The doctrine of the environmental conservation must be widely promoted from the position of furu’iyat to the ushūliyāt in Islam, and not merely hajjiyāt or tahsiniyāt, but dharūriyāt.

Bibliography
Abu Dawud. Sunan Abi Dawud. hadis no. 5239.
Abu Zahrah, Muhammad. Ushul al-Fiqh. Cairo: Dr al-Fikr, tt.
Fadhl, Munâ Abu al-. *Nahwa Manhâijiyyt al-Ta’amul ma’a Mashdir al-Tanzîr*.
Hallaq, Wael B. *A History of Islamic Legal Theories; An Introduction to Sunni Ushul Fiqh*. Cambridge: Cambridge University, 1997.
http://www\v.conservation.or.id/home.php?modul=news&catid=34 &tcatid=239&page=g_news.detail (diakses tanggal 1December2006).
Juwaini, al-. *al-Burhân fi Ushûl al-Fiqh*. Juz I & II, Cairo: Dâr al-Anshâr, 1400 H.
Naisaburi (Muslim), Abu al-Husain Muslim ibn al-Hajjaj al-Qusyairi al-. *Sahih Muslim*. Juz III, no. 1553;
Ratnawati, Tina. “Pengendalian Sistem Ekologi, Sosial, dan Ekonomi untuk Meningkatkan Kualitas Gaya Hidup (Lifestyle) Masyarakat di Perkotaan, Peran MST dalam


Tirmizi, al-. *Sunan al-Tirmizi*, no. 1382;


