

FOREST WAQF: AN ALTERNATIVE SOLUTION FOR PROTECTING ENVIRONMENT IN KALIMANTAN

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Abstract: This article provides an alternative solution in terms of environmental protection in Islamic law, namely a study of the description of the potential development of waqf law, in this case, forest waqf, as an alternative solution to environmental protection on the island of Kalimantan. The method used in this paper is normative juridical, which examines the law of ecological protection theoretically from the perspective of Islamic law and describes the possibility of new alternatives from the study of empowerment of waqf and its potential on the island of Kalimantan. The results show that waqf for the environment can balance development and environmental sustainability, as well as have an impact on sustainable environmental preservation, where future generations will have a level of utilization of the environment and natural resources that are at least equal to the level of utilization of the current generation, both in terms of the diversity of choices for natural resources, the quality of the environment and natural resources, and access to the environment and natural resources on the island of Kalimantan as the island where the capital city of Indonesia Archipelago is located.

Keywords: Forest waqf; environmental protection; sustainable development.

Introduction

Waqf has become an instrument of Islamic law that is believed to be a way to solve people's problems, including social issues such as poverty, empowerment of money, and securities that have been

widely studied and used for various communities. The potential of waqf is found in multiple objects such as land, buildings, and other uses.¹ According to data from the National Development Planning Agency, waqf shows progress every year; wherein in 2017, there was recorded waqf land covering an area of 4.3 billion square meters and cash waqf of as much as 22 billion rupiahs. Utilization of the potential of waqf is inseparable from the role of the government through various efforts, starting from the issuance of the fatwa of the Indonesian Ulema Council and laws and regulations, as well as collaboration with multiple sectors such as the Indonesian Waqf Board (BWT), community organizations, and Islamic banks.²

Waqf for the environment is a relatively new concept in Indonesia. However, in Kuwait, this waqf has been the government's focus through the Kuwait Awqaf Public Foundation (KAPF) with the Environmental Fund program since 1995. Although not very popular in Indonesia, there are several movements initiated by youth, for example, youth in Aceh through Forests, in Bogor through the Bogor Foundation's Waqf Forest or through what has been advocated by graduates from the Bogor Agricultural Institute known as Forest Digest.³ Several organizations have also started moving to introduce tree waqf programs such as the Bangka Belitung Regional Amil Zakat Agency and Dompot Dhuafa Republika. Even the Indonesian Ulema Council (MUI) Bandung has issued a fatwa regarding the importance of the waqf of protected trees.⁴

The importance of waqf for the environment cannot be separated from many environmental issues, such as illegal logging,

¹ Mohammed Obaidullah, "A Framework for Analysis of Islamic Endowment (Waqf) Laws," *International Journal of Not-for-Profit Law*, Vol. 18, No. 1 (February, 2016), 54-55.

² Helza Nova Lita, "Pengaturan Wakaf dan Perkembangannya di Indonesia Menurut Undang-Undang Tentang Wakaf Nomor 41 Tahun 2004 Tentang Wakaf," *Al-Awqaf*, Vol. 8 (January, 2015), 100-102.

³ "Konservasi Melalui Hutan Wakaf," *EcoMasjid*, <http://ecomasjid.id/kegiatan/konservasi-melalui-hutan-wakaf>.

⁴ Mochammad Arif Budiman, "The Role of Waqf for Environmental Protection in Indonesia," presented on *Aceh Development International Conference (ADIC)*, Kuala Lumpur, March 26-28, 2011, retrieved from <https://ssrn.com/abstract=1843391>.

forest fires, pollution, and global warming. The fact is that even though in Islam humans are commanded to protect the environment, not a few Islamic countries and the majority of the Muslim population experience severe environmental problems, such as Indonesia.⁵

We are starting from the issuance of Presidential Regulation No. 59 of 2017. Indonesia has launched several strategies for achieving Sustainable Development, which is an agenda adopted by all Member States of the United Nations in 2015, including economic sector productivity, green economy, digital transformation, relocation or moving the capital city of Indonesia.⁶ January 18, 2022, is a historic day for the Indonesian people with the passage of the Bill on the State Capital (IKN) into law by the Indonesian House of Representatives and the Government. Thus, Indonesia will have a new IKN on the island of Kalimantan to replace Jakarta.⁷

Of course, there are pros and cons to the relocation of the National Capital. The House officially approved of Representatives in the 13th Plenary Meeting of the DPR RI for the third trial period of the 2021-2022 trial year. From the relocation process, which was considered super fast, only about 40 days since the members of the Special Committee for the IKN Bill were first appointed on December 7, 2021, to concerns about environmental problems that would be undermined by the construction of the State Capital on the island of Kalimantan. WALHI's infrastructure and spatial planning campaign manager, Dwi Sawung, said at least three fundamental problems based on the IKN's Strategic Environmental Study (KLHS).⁸

⁵ Savitri Nur Setyorini, Wirdyaningsih, and Chita Arifa Hazna, "Wakaf Lingkungan Hidup Dalam Rangka Pelaksanaan Pembangunan Berkelanjutan Dan Pengakikan Keadilan Antargenerasi," *Journal of Islamic Law Studies, Sharia Journal*, Vol. 9 (Mei, 2019), 98-132.

⁶ "Begini Komitmen Indonesia atas Pencapaian SDGs," *Hukumonline.com* (19 January 2022), available at <https://www.hukumonline.com/berita/a/begini-komitmen-indonesia-atas-pencapaian-sdgs-lt61e7d8ab65ce2/>.

⁷ Ayundari, "Urgensi Pemindahan Ibu Kota Negara," *Kementerian Keuangan Republik Indonesia* (25 January 2022), available at <https://www.djkn.kemenkeu.go.id/kanwil-kalbar/baca-artikel/14671/Urgensi-Pemindahan-Ibu-Kota-Negara.html>.

⁸ Dwi Bowo Raharjo and Stephanus Aranditio, "Walhi Ungkap 3 Dampak Lingkungan Serius Akibat Pemindahan Ibu Kota Ke Kalimantan," *Suara.com* (19

First is the threat to water systems and climate change risk due to a disturbed hydrological system and inadequate groundwater record. Second, the relocation of the new state capital also threatens the survival of flora and fauna, even though they function to protect the ecosystem. Third, the transfer of IKN also impacts environmental pollution and damage, such as increasing the risk of forest fires, oil pollution, decreasing nutrients in coastal and marine areas, mining holes that are not closed, contaminating groundwater, and hampering community logistics.⁹

The development of the National Capital City (IKN) of the Archipelago in East Kalimantan is already underway in the field. The Ministry of PUPR, for example, is currently building the Sepaku Semoi Dam, which is located to the north of the IKN Nusantara area for natural water sources. Dam construction has reached 45 percent as of mid-April 2022. Entering the second semester of this year, essential infrastructure development will be increasingly visible, especially in the Central Government Core Area (KIPP), covering an area of 6,671 hectares. The stretch of growth in this field has undoubtedly raised the local community's hopes. The Head of the Great Dayak Customary, Hamtolius Gati, said that IKN Nusantara's presence provides optimism for significant progress for Kalimantan in the form of infrastructure development for transportation, education, agriculture, tourism, and social culture.¹⁰ Taking into account the hopes and progress of Indonesia's national development and the aspirations of sustainable development in 2030, the relocation of IKN Nusantara is necessary and expected to be the path of progress for the Indonesian state. However, we also cannot ignore the impact of environmental damage on the island of Kalimantan due to the development at IKN Nusantara.

Therefore, this paper wants to provide an alternative solution in terms of environmental protection in Islamic law, namely a

January 2022), available at <https://www.suara.com/news/2022/01/19/123032/walhi-ungkap-3-dampak-lingkungan-serius-akibat-pemindahan-ibu-kota-ke-kalimantan>.

⁹ Ibid.

¹⁰ "IKN Mulai Dibangun, Kepala BIN: Kebudayaan Lokal Tak Akan Tergerus," *JawaPos.Com* (24 April 2022), available at <https://www.jawapos.com/nasional/24/04/2022/ikn-mulai-dibangun-kepala-bin-kebudayaan-lokal-tak-akan-tergerus/>.

study of the description of the potential development of waqf law, in this case, forest waqf, as an alternative solution to environmental protection on the island of Kalimantan. The method used in this paper is normative juridical, which examines legal theoretically¹¹ ecological protection from the perspective of Islamic law and describes the possibility of new alternatives from the study of waqf empowerment and its potential on the island of Kalimantan.

Environment in Islamic Jurisprudence

Environmental conservation in Arabic is known as ecological fiqh (*fiqh al-bi'ah*). If examined from the semantic side, it consists of two words (compound sentences; *mudāf* and *mudāf Allāh*), namely the words fiqh and al-bi'ah. The environment can interpret the term “*al-bi'ah*,” namely the unity of space with all objects, forces, conditions, and living things, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living creatures.¹² The concept of environmental fiqh is an integral part of the general concept of fiqh.¹³ Linguistically, fiqh is defined as an understanding of something. The Qur'an several times mentions derivative words from fiqh, including in al-Tawbah [9]: 22. In this verse, Allah calls out, “let there be from each of their groups a group of people who go to understand (study) religion to warn their people when they have returned to it, so that they may be him.”

In generic terms, environmental fiqh is interpreted as the result of ijtihad scholars on the law governing the behavior of the mukallaf in its interaction with the environment. The rules of conduct, in fiqh, are accommodated in five legal variants: *al-wujub*, *al-mustahab*, *al-ibāḥ*, *al-karāḥ*, and *al-ḥurmah*. In environmental awareness, fiqh does not seem sufficient to be understood solely in fiqh. Still, it requires the involvement of two other sciences, kalam/tawhid, and tasawuf/ethics, as guardians. Tawhid emphasi-

¹¹ Soejono Soekanto, *Penelitian Hukum Normatif* (Jakarta: Rajawali Press, 2014), 12.

¹² Mariatul Istiani and Muhammad Roy Purwanto, “Fiqh Bi'ah dalam Perspektif Al-Qur'an,” *At-Thullab Jurnal*, Vol. 1, No. 1 (2019), 27-44.

¹³ Ahmad Thohari, “Epistemologi Fikih Lingkungan: Revitalisasi Konsep Masalah,” *Az Zarqa*, Vol. 5, No. 2 (2013), 145-161.

zes the awareness of God, who has created nature (the environment). Respect for all of God's creations is an essential basis in building the necessity of environmental awareness. Environmental awareness from the perspective of monotheism is discussed in the theme of eco-tawhid. Sufism/ethics is vital to building awareness of implementing God's teachings. Unlike fiqh, which creates awareness through legal certainty with concrete measures, Sufism emphasizes awareness that arises from within a person. Environmental awareness from the perspective of Sufism is discussed in the theme of ecosophy.¹⁴

From the above understanding, it can be understood that environmental fiqh (*fiqh al-bi'ah*) are Islamic provisions sourced from detailed arguments about human behavior towards their environment to realize the benefit of the earth's population in general to avoid the damage that occurs. Therefore, environmental fiqh in question is knowledge or Shari'ah demands concerned with ecological problems or Shari'ah demands used to criticize human behavior that treats the environment destructively and exploitatively.¹⁵ Al-A'raf [7]: 56 describes the damage done on earth: "And do not do mischief in the earth, after (Allah) has repaired it and pray to Him with fear (will not be accepted) and hope (will be granted). Verily, the mercy of Allah is near to those who do good."

In his book, *Ri'ayat al-Bi'ah fi Shari'at al-Islam*, Yusuf Al-Qaradhawi explained that fiqh is very concerned about these environmental issues. This can be proven by the discussions contained in the classical fiqh literature, such as discussion of taharah (cleanliness), *ihya' al-mawat* (opening unused land), *al-musaqab* and *al-muzara'ah* (use of land belonging to others), laws related to the sale and purchase and ownership of water, fire and salt, pet rights and other discussions related to the environment that surrounds humans.¹⁶

¹⁴ Sukarni, "Isu Lingkungan Dalam Perspektif Kalam, Fiqh, dan Tasawuf," *ISLAMICA: Jurnal Studi Keislaman*, Vol. 7, No. 2 (2013), 446-467.

¹⁵ Abdul Wahhab Khallaf, *Ilmu Ushul Fikih Kaidah Hukum Islam*, 7th ed. (Jakarta: Pustaka Amani, 2001), 15.

¹⁶ Yusuf Al-Qaradhawi, *Ri'ayat al-Bi'ah fi al-Shari'ah al-Islamiyah* (Kairo: Dār al-Shuruq, 2001); Yusuf Al-Qaradhawi, *Islam Agama Ramah Lingkungan*, ed. Abdullah Hakim Shah (Jakarta: Pustaka Al-Kautsar, 2001), 39; Ali Mohamed Al-Damkhi, "Environmental Ethics in Islam: Principles, Violations, and Future

He also emphasized that environmental care is an effort to create benefits and prevent harm.¹⁷ This is in line with *maqāsid al-sharī'ah* (the purpose of religious law), which is formulated in *kulliyāt al-khums*, namely: *ḥifẓ al-nafs* (protecting the soul), *ḥifẓ al-'aql* (protecting the mind), *ḥifẓ al-māl* (protecting property), *ḥifẓ al-nasb* (protecting offspring), *ḥifẓ al-dīn* (saving religion). Preserving the environment, according to him, is a demand to cover the five objectives of the Sharī'ah. Thus, all behaviors that lead to environmental destruction are increasingly threatening to life, mind, property, lineage, and religion.¹⁸

Forest Waqf

Linguistically, “waqf” comes from the Arabic “*al-waqf*,” which means ‘to hold back.’ In Arabic, the word *al-waqf* is also often referred to as *al-ḥabs*, which implies something held. According to the Sharī'ah, waqf means to withhold property that may be taken advantage of without depleting the object and using it for good. Based on this, it can be seen that waqf is eternal, both the thing being waqf and the benefits derived from it.¹⁹

Waqf has several elements that can be reviewed from Islamic law and statutory regulations. Based on Islamic law, the characteristics of waqf, in the sense of the pillars and conditions, need to be fulfilled so that a waqf can be called valid. Although this is not explicitly stated in the Qur'ān, the scholars consider it necessary to define it so that waqf can be managed and distinguished from other institutions. Several fiqh mentions various elements of waqf, and there are differences between them. In brief, these differences are summarized by Al-Imam an-Nawawi in the book *Raudhatuth Talibin*, with the following elements:²⁰ *al-Wāqif* (namely people who make waqf), *al-Mawqūf* (a waqf

Perspectives,” *International Journal of Environmental Studies*, Vol. 65, No. 1 (2008), 11-31.

¹⁷ Al-Qaradhawi, *Ri'ayatu Al-Bi'ah*; al-Qardhawi, *Islam Agama Ramah Lingkungan*, 44.

¹⁸ A Djazuli, *Kaidah-Kaidah Fikih Islam* (Jakarta: Kencana, 2007), 165.

¹⁹ Haslindar Ibrahim, Afizar Amir, and Tajul Ariffin Masron, “Cash Waqf: An Innovative Instrument for Economic Development,” *International Review of Social Sciences and Humanities*, Vol. 6 (2013), 2.

²⁰ Mohammad Daud Ali, *Sistem Ekonomi Islam Zakat dan Wakaf* (Jakarta: UI Press, 2006), 85-86

property), *al-Mawqūf ‘alayh* (namely the purpose of waqf or one who will receive the benefits of waqf), *Ṣighab* (a pledge on the intention of waqf).

Meanwhile, the elements of waqf in the Waqf Law can be found in Article 6, which includes:²¹

- a. *Wāqif*, namely one who makes waqf, comprising of individuals, organizations, and legal entities. According to the Waqf Law, a *wāqif* must be mature, of sound mind, not hindered from carrying out legal actions, and the rightful owner of the waqf property. Likewise, with organizational wakif and legal entities, whose management must be people who meet the requirements of individual wakif.
- b. *Nāẓir*, namely the manager or manager of the waqf property whose task is to develop the waqf property and distribute its benefits by the specified waqf objectives. A *nāẓir* must understand the knowledge of the Qur’ān and Hadith and have noble character. This means that a *nāẓir* must be a Muslim. He must also be an expert in a field by designation waqf, such as agriculture and education.
- c. Waqf property, i.e., everything that can be donated, consisting of movable and immovable objects.
- d. Waqf pledge is a wakif statement to endow his property. The pledge is carried out in the presence of the Waqf Pledge Deed Official (*Pejabat Pembuat Akta Ikrar Wakaf/PPAIW*) and two witnesses verbally and stated in a deed.
- e. Designation of Waqf Assets. Based on the Waqf Law, can be the purpose or assignment of waqf are a means of worship; education and health activities and infrastructure; assistance to abandoned children, the poor, orphans, and scholarships; progress and improvement of the people’s economy; and progress and other general welfare that do not conflict with Shari’ah and the laws and regulations.
- f. Waqf Term. According to the law, waqf can be carried out permanently or for a certain period according to the request of the wakif. However, there is no more detailed explanation in the law regarding the limitation of this period.

²¹ Law of the Republic of Indonesia No. 41 of 2004 concerning Waqf.

Based on the above, it can be seen several things. First, the implementation of waqf not only serves to realize the potential and benefits of waqf property for worship but also for the general welfare. This general welfare is the goal of the Indonesian state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia and has a broad meaning, including the fulfillment of the people's right to a good environment.²²

Second, waqf property can also be in the form of rights to land or plants and other objects related to land, the designation of which must be for the general welfare. There is no explicit mention of waqf for the environment in this case. However, from the type of waqf property in the form of rights to land or plants and other objects related to land and its designation for public welfare, it can also be interpreted as related to and including forest waqf for the sake of environmental preservation.

Waqf Forest is one form of implementing the waqf concept, which can be an instrument in supporting environmental conservation. This is in line with the Indonesian Ministry of Religion policy, which fully supports the development of waqf forest innovation. Director of Zakat and Waqf Empowerment, Ministry of Religion, Muhammad Fuad Nasar, said that the Waqf Forest was a form of the invention to empower waqf. From the ecological aspect, waqf forests play a role in maintaining micro-climate stability, preserving biodiversity, conserving water, and preventing natural disasters. by regulation, waqf forest is included in the category of 'waqf for other public welfare that does not conflict with Shari'ah and statutory regulations' as regulated in Article 22 of Law Number 41 of 2004 concerning Waqf.²³

The concept of waqf for the environment is not yet widespread in Indonesia. Still, it has been implemented in Kuwait through the Kuwait Awqaf Public Foundation (KAPF) with the Environmental Fund program since 1995. KAPF is not only tasked with collecting waqf funds but also managing and

²² The right to a good environment is one of the human rights that must be fulfilled as stated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

²³ "Pelestarian Lingkungan Hidup Melalui Hutan Wakaf," *Badan Wakaf Indonesia* (31 Agustus 2020), <https://www.bwi.go.id/5427/2020/08/31/kementrian-agama-dukung-pelestarian-lingkungan-hidup-melalui-program-hutan-wakaf/>.

distributing its benefits; were for environmental purposes, KAPF established the Regional Organization for the Environmental Protection of the Gulf (regional organization for the protection of the Gulf), reforestation of mosques and school gardens, tree planting projects, and funded various environmental organizations. KAPF cooperates with companies in Kuwait, one of which is in the form of investing (shares). With KAPF's role in the company, KAPF also encourages the company's policies and activities to be environmentally friendly.²⁴

The concept of waqf for the environment in Indonesia can be found in the provinces of Aceh and West Java, which began with the purchase of critical land and potential land to be productive and preserve the environment. The concept of waqf in a waqf forest begins with the initiation of fundraising by the waqf forest community by raising donations sent through a bank account in the name of one of the waqf initiators. Once collected, the funds are disbursed in stages, and land is purchased for making waqf forests. These lands will then be converted into woods that are expected to provide ecological and economic benefits, for example, by turning them into nature schools. Furthermore, the management of the waqf forest will be handed over to the local village, which is carried out by the village institution, to be utilized according to its objectives, namely ecological goals and economic goals. The waqf implemented here is a waqf in the form of land. However, its designation is to be used as a forest for environmental sustainability to realize general welfare and the waqf property's function, purpose, and assignment.²⁵

The State of Kalimantan's Forests and the Potential of Forest Waqf as a Solution for Environmental Protection

Forest is an area with dense vegetation consisting of lush greenery. Contains plants, shrubs, ferns, grasses, mushrooms, wild animals, and other living things in the forest. Forests consist of air, water, and land. The existence of the forest makes the area look

²⁴ Eisa Al-Enezy, "Environmental Waqf for Sustainable Development in Kuwait Propositions, Problem and Practices," *Journal of Islamic Law Review*, Vol. 11 (December, 2015), 2015; Budiman, "The Role of Waqf," 885.

²⁵ "Konservasi Melalui Hutan Wakaf," *EcoMasjid*, <http://ecomasjid.id/kegiatan/konservasi-melalui-hutan-wakaf>.

astonishing, peaceful, and peaceful. Forest as an ecosystem is a reciprocal relationship between living things and their environment, where living things need each other. A food chain contains oxygen used to breathe for every living thing. However, the forest has become scarce due to human activities in recent years. Forests are destroyed, and factories are built for human life even though the forest is the energy source for every living thing.

The environment as a resource is an asset needed for society's welfare. This is by the instructions of Article 33, paragraph (3) of the 1945 Constitution, which states that the earth, water, and natural resources contained therein are used for the greatest prosperity of the people. Deforestation in Indonesia primarily results from a corrupt political and economic system, which views natural resources, particularly forests, as a source of income that can be exploited for political and personal gain. Humans, both as subjects and objects of development, are part of the ecosystem. This holistic view is used in development ecology. The growth of Indonesia's wood processing and plantation industries has proven very profitable over the years. Over the last 30 years, the country has dramatically increased the production of forest products and plantation products grown on previously forested land.²⁶

The surge in plantation development, especially oil palm plantations, is another cause of deforestation. Nearly 7 million ha of the forest had been approved for conversion to plantations by 1997, and this forest has almost certainly been cleared. But the land converted to oil palm plantations since 1985 is only 2.6 million ha, while new plantations for other tree crops are likely to be 1-1.5 million ha. The remaining 3 million ha of previously forest land is now neglected. Many of the same companies that operate HPH concessions also own plantations. And a corrupt relationship developed, with people in business applying for permits to build plantations, clearing forests, and using the resulting wood primarily for pulping, then moving again. At the same time, the land that had been removed was abandoned.²⁷

²⁶ Otto Soemarwoto, *Ekologi Lingkungan Hidup dan Pembangunan* (Jakarta: Djambatan, 2004), 158.

²⁷ Anggraeni Arif, "Analisis Yuridis Pengrusakan Hutan (Deforestasi) Dan Degradasi Hutan terhadap Lingkungan," *Jurisprudentie*, Vol. 3, No. 1 (2016), 33-42.

Director-General of Pollution and Environmental Damage Control (PPKL) KLHK, Karliansyah, said the Barito River Basin (DAS) South Kalimantan forested area decreased. The ratio outside the non-forested area is 81.8 percent, dominated by dry land mixed with shrubs at 21.4 percent, rice fields at 17.8 percent, and plantations at 13 percent. From 1990 to 2019, the decrease in natural forest area was 62.8 percent. The most significant decline in forest area occurred between 1990 and 2000, amounting to 55.5 percent. In 1990 there was a total forest area of 803,104 hectares (ha) compared to 333,149 ha in 2019, while the non-forest area in 1990 was recorded at 1,025,542 ha 1,495,497 in 2019. The Barito watershed passes through several provinces in Kalimantan with around 6.2 million ha. with 1.8 million ha or 29 percent in the South Kalimantan area.²⁸

Meanwhile, from 2002 to 2021, East Kalimantan lost 1.20Mha of wet primary forest, accounting for 34% of the total tree cover loss in the same period. The total area of moist primary forest in East Kalimantan decreased by 9.6%. From 2001 to 2021, East Kalimantan lost 3.55Mha of tree cover, equivalent to a 19% reduction in tree cover since 2000 and equal to 2.48Gt of CO₂ emissions.²⁹ Indonesia is listed as a country experiencing the highest rate of destruction globally. This damage results from human behavior that wants to take advantage of material results from excessive forest exploitation. The transfer of forest functions and the issuance of permits to companies that do not comply with procedures are the actions of policymakers in Indonesia.³⁰

In addition, according to research from Riskan Effendi, the Ulin Wood Tree (*Eusideroxylon zwageri* T & B) is one of the native species of the island of Borneo that must be preserved. The community has used it for hundreds of years, especially in the interior. Still, now its existence is increasingly rare and has been included. On the CITES list, planting efforts are not yet

²⁸ Intan Umbari Prihatin, "KLHK: Sejak 1990-2019, Luas Hutan Alam Di Kalimantan Selatan Turun 62,8 Persen," *Merdeka.Com* (19 January 2021), <https://www.merdeka.com/peristiwa/klhk-sejak-1990-2019-luas-hutan-alam-di-kalimantan-selatan-turun-628-persen.html>.

²⁹ See the summary of *Global Forest Watch* at <https://www.globalforestwatch.org/dashboards/country/IDN/15/>.

³⁰ Arif, "Analisis Yuridis Pengrusakan Hutan," 40.

comparable to logging activities. He suggested that In-Situ and Ex-Situ conservation be carried out and grow ironwood in the suitable habitat and other native species in customary forests, protected forests, and Industrial Plantation Forest areas to maintain ironwood sustainability.³¹

Seeing this, the author feels that forest waqf can be an alternative solution to the destruction of Kalimantan's forests. Waqf for the environment turns out to have a real and significant potential in improving the environment, closely related to environmental conservation, sustainable development, and intergenerational justice. Regarding protection, according to Dudi Iskandar, Head of Legal and Technical Cooperation Division of the Directorate General of Watershed Control and Protected Forests at the Ministry of Environment and Forestry, waqf for the environment can be used as a means of forest rehabilitation as regulated in Article 41 of Law Number 41 of 1999 concerning Forestry, namely efforts to restore, maintain, and improve forest and land functions so that their carrying capacity, productivity, and roles (production, protection, and conservation) are supported which are carried out on critical land, both inside and outside the forest area.³²

Therefore, with the implementation of waqf for the environment, it will undoubtedly balance the need for development and also the need for a suitable environment as the goal of sustainable development as stated in the Rio Declaration, namely in Principle 1 and Principle 4. said that humankind is the center of attention on sustainable development. Humans have the right to a healthy and productive life in harmony with nature. Meanwhile, Principle 4 states that to achieve sustainable development, environmental protection must be an integral part of the development process and cannot be viewed as something separate from it.³³

Based on this, with the increasing pace of development launched by the Government in Indonesia, this waqf for the

³¹ Riskan Effendi, "Eusideroxylon Zwageri's Wood in Kalimantan: Potency, Utilization, Problems and Needed Policy for Its Sustainability," *Jurnal Analisis Kebijakan Kehutanan*, Vol. 6, No. 3 (2009), 161-168.

³² Setyorini, Wirdyaningsih, and Hazna, "Wakaf Lingkungan Hidup," 120.

³³ United Nations, "Rio Declaration on Environment and Development 1992."

environment balances development and environmental protection. On the one hand, growth is still carried out for the community's welfare. On the other hand, environmental conservation activities are carried out integrally. And sustainable by planting land derived from waqf with various plants and planting the ground with plants obtained from waqf.

Waqf is permanent; it may not be sold, given, or changed its designation without an agreement with the wakif. This concept is very relevant to forests that need guarantees for their sustainability. If the status is waqf, then no party can change the designation of the green land so that the sustainability of the urban forest can be maintained. Economic interests often defeat green areas. In Surabaya, there was a green area that changed its designation to a gas station, but in the end, it was able to be returned to its original function. In the case of waqf, if there is a transfer of waqf function, the community can file a lawsuit with the Religious Court.

The scheme of collecting waqf in cash will make it easier to realize waqf objects, especially immovable objects, such as land. It is undeniable that land prices are increasing along with the higher demand for land. Moreover, the island of Kalimantan will become an IKN Nusantara; no matter how small, the ground will have a high economic value. Acquisition of land insufficient area for forest formation is certainly not a small price and is difficult for individuals to do. With the cash waqf scheme, it is possible to realize this. In this modern era, it is possible to collect funds from the public with a clear purpose. Using financial technology will make it easier to manage cash for forest waqf.³⁴ The movement to collect waqf funds can be carried out by environmentalist communities collaborating with waqf bodies that already have permits. Mass organizations can also do it with environmental institutions, such as Muhammadiyah, which has an Environmental Council. The initiator can simultaneously act as a nazir. The initiating institution issues waqf cards distributed to the community several land prices and the price of planting and tree

³⁴ Idaul Hasanah and Rahmad Hakim, "Conservation of Urban Forest through Optimization of Cash Waqf," *Prosiding Seminar Nasional III: Biologi, Pembelajaran, dan Lingkungan Hidup Perspektif Interdisipliner* (Malang: Prodi Pendidikan Biologi-FKIP - Pusat Studi Lingkungan dan Kependudukan [PSLK], 2017), 345-349.

maintenance for the land that has been determined. Nazir manages the land from planting to plant care when the land has been acquired.

The productivity of this forest waqf cannot be felt directly. The community in the future can feel significant impacts. It was challenging to get results at the beginning of forest formation, but that is the meaning of sustainability; sustainable development must commit to implementing it. Even though Karl Bruckmeier,³⁵ in the book *Economics and Sustainability: Social-ecological perspective*, says there is no way to ‘saving ecology,’ according to the author, forest waqf can be an alternative solution.

Bruckmeier³⁶ said that the conditions for integrating economic and ecological principles are regulations and political restrictions on using natural resources. Economic growth locked in by “technical improvements” is only an illusion of engineering solutions because it does not change the relationship of political and economic power to the forms of use of natural resources. There are many limitations to fighting and preventing climate change, biodiversity loss, deforestation, urbanization, and urban expansion. Economic discourse does not follow the ecological discourse debate. According to him, the assumption that the loss of natural capital can be substituted through other forms of money—artificial capital, social capital, and technology—is just an illusion.

The author will present an example of surprising facts about waqf that lasted more than 1400 years and is still producing. Waqf of Abū Ṭalḥah’s garden and waqf of ‘Uthmān b. ‘Affān’s well is none other than waqf in the form of environmental protection for the benefit of the community. ‘Uthmān donated the Raumah Well, which he bought 20,000 dirhams from a Jew. Since then, anyone can use the Raumah Well, including the old Jewish owner. The waqf of ‘Uthmān’s well is now continuing to grow. By the Ottoman government, the Ottoman waqf was maintained and developed. The Saudi Kingdom continued ‘Uthmān’s waqf care. As a result, the garden grew about 1550 date palms. The Arab

³⁵ Karl Bruckmeier, *Economics and Sustainability: Social-Ecological Perspectives* (London: Palgrave Macmillan, 2020).

³⁶ Ibid.

Kingdom, through the Ministry of Agriculture, managed ‘Uthman’s waqf gardens.³⁷

The money obtained from the date palm harvest was divided in half, half of which was distributed to orphans and the poor, and the other half was deposited in a bank with an account in the name of ‘Uthmān. The Ministry of Endowments holds the report in the name of ‘Uthmān. Thus, ‘Uthmān’s ‘wealth’ kept in the bank continued to grow until it was finally used to buy a plot of land in the Markazīyah area (exclusive area) near the Prophet’s Mosque. On this land, the ‘Uthmān hotel was built from his bank account, right next to the Masjid, which was also in the name of ‘Uthmān. The hotel is now managed by Sheraton and is an international standard hotel. The hotel stands proudly as high as 15 floors with 24 rooms on each floor. The hotel is equipped with great restaurants and shopping areas. The ‘Uthmān Mosque is also still actively used near the hotel. Not even the benefits that continue to flow but also the charity. In the case of ‘Uthmān’s waqf, the charity will continue to flow until the end of the day to the book of righteous deeds on behalf of ‘Uthmān.³⁸ This is a real example of an environmental-based waqf that is productive and whose charity continues to flow until later.

When environmental waqf is carried out, whether in the form of land waqf for planting or waqf in the form of plants, indirectly, these activities are one of the steps for environmental conservation, both conservation in the form of planting and controlling damage to watersheds. Waqf has a strong foundation; waqf must be adequately implemented and must not deviate. Thus, the designation cannot be changed when the waqf pledge is carried out, and the waqf property is intended for environmental preservation. As a result, ecological conservation activities will be maintained and carried out continuously. In addition to creating sustainability, it will also impact future generations.

As stated in the Fenner Conference on the Environment, intergenerational justice must fulfill four things, namely: a) every

³⁷ “Kisah Teladan Wakaf Abu Thalhah,” *Badan Wakaf Indonesia* (3 January 2020), <https://www.bwi.go.id/4264/2020/01/03/kisah-teladan-wakaf-abu-thalhah/>.

³⁸ “Wakaf Sumur Sahabat Utsman Bin Affan,” *Badan Wakaf Indonesia* (20 December 2019), available at <https://www.bwi.go.id/4222/2019/12/20/kisah-wakaf-sumur-utsman-bin-affan/>.

society in this world between one generation and another is in a global partnership; b) the current generation should not burden the next generation with development externalities; c) each generation inherits quality natural resources and habitats and passes them on to the next generation with which this generation has equal opportunities in physical, ecological, economic and social quality; and d) the current generation may not inherit the next generation of natural resources that cannot be renewed with certainty (exact).³⁹

Environmental endowments can also fulfill the environmental obligations proposed by Weiss and the four conditions mentioned above to achieve intergenerational justice. As mentioned earlier, when the waqf pledge is carried out and the waqf property is intended for environmental preservation, the designation cannot be changed so that it will be maintained and ecological conservation is carried out continuously. If viewed from environmental obligations, then with preservation through environmental waqf, future generations will have a variety of choices for the environment and natural resources that are at least the same as the current generation addition, future generations will also get benefits in the form of quality of the environment and natural resources that are at least the same as the current generation and have the right to access the environment and natural resources.

The current generation is a partner of future generations, wherewith the implementation of waqf for the environment; the age will not leave externalities for future generations because what is done by the current generation will undoubtedly impact future generations. With endowments for the domain that are eternal and continuously intended for environmental sustainability, the environment and natural resources will be maintained so that the current generation will inherit natural resources and quality habitats for future generations and prevent the depletion of resources. Natural resources cannot be renewed anymore. In this case, future generations must get a good quality environment and

³⁹ Laode M. Syarif, Birkah Latif, and Andri G. Wibisana, "Evolusi Kebijakan Prinsip-Prinsip Lingkungan Global," in *Hukum Lingkungan Teori, Legislasi, dan Studi Kasus*, ed. Laode M. Syarif and Andri G. Wibisana (Jakarta: USAID-Kemitraan Partnership-the Asia Foundation, 2015), 38-98.

natural resources to fulfill their needs based on equal physical, ecological, economic, and social opportunities.

Based on this, the implementation of forest waqf for the environment will embody the principles of sustainability and sustainability as well as the principles of justice, wherein the performance of environmental protection and management, everyone bears obligations and responsibilities to future generations and each other in one generation by making efforts to preserve the carrying capacity of the ecosystem and improve the quality of the environment as regulated in Article 2 of Law Number 32 of 2009.

As previously explained, environmental waqf has a close relationship with sustainable development and intergenerational justice. However, unfortunately, there is no clear concept of environmental waqf, so it is necessary to determine how to carry out the ecological waqf and what types of waqf assets can be used in this activity.

The concept of waqf for the environment is not much different from giving donations for environmental management. However, everything will be carried out based on Islamic law, starting from the contract, delivery of waqf property, management, and nazir, to the purpose of the waqf. Donations given in waqf for the environment must have the same characteristics as the prescribed property, such as not being lost. The current environmental donation program does not seem to make any difference. Still, the collection of donations, whether in money, animals, plants, or land as waqf objects, must be adjusted to waqf Shari'ah in Islam, which is maintained and continuous. Thus, the waqf will be continuously intended for the environment and impact environmental preservation by sustainable development.

The recommendations that can be given by the authors include: *first*, establishment of laws and regulations related to forest waqf and the environment as a whole, including those concerning institutions that can manage environmental waqf, their forms, and financial management mechanisms;⁴⁰ *second*, implementation of

⁴⁰ Christoph Schwarte, "Environmental Protection in Islamic Law: An Overview on Potential Influences for Legal Developments in Iraq," *Local Environment The International Journal of Justice and Sustainability*, Vol. 8, No. 5 (2003), 567-576.

cooperation and coordination between relevant agencies in the performance of forest waqf for the environment, both centrally and regionally, such as the National Land Agency, the Indonesian Waqf Agency, and the Ministry of Environment and Forestry/Environmental Service; third, development of the concept of forest waqf for the environment to be implemented so that it can become an effective instrument to help preserve the environment and support sustainable development;⁴¹ *forth*, dissemination of forest waqf for the environment so that the wider community is moved to contribute to this waqf and help preserve the environment; and *fifth*, it was scheduling the Forest Waqf program in Kalimantan as an island that will be the place for the National Capital of the Indonesia Archipelago professionally.

Conclusion

This forest waqf for the environment is closely related to sustainable development and the restoration of the condition of the island of Kalimantan, which will become the capital city of the archipelago. In terms of sustainable development, forest waqf balances development and environmental protection for the environment. On the one hand, growth is still carried out for the community's welfare. On the other hand, environmental conservation activities are carried out integrally and sustainably by planting land derived from waqf. With various plants and planting, the ground with plants is obtained from waqf. Waqf is not only intended for worship issues but also for social issues, including environmental problems. Forest waqf can be an alternative solution to ecological concerns. This scheme makes it possible to acquire a large amount of land for the needs of the forests of the island of Kalimantan and finance the planting and maintenance of the forests of the isle Kalimantan.

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