

EFFORTS TO PROTECT AND MANAGE NATURAL RESOURCES OF THE SEA ACCORDING TO ISLAMIC LAW IN ORDER TO MAKE UTILIZATION

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ABSTRACT

The oceans have an urgency in human life, which becomes the means of sailing ships that bring them benefits. The oceans contain an invaluable wealth of minerals, marine animals and precious stones and others that are human needs. Especially in today's increasingly felt the urgency of the ocean with the number of people who turn marine in digging and exploiting the wealth contained therein. So much of the human attachment to today's oceans encourages every Muslim to know the laws and views of Islam on the oceans. Indonesia's natural resources both on the coast and in the middle of the sea faced with the fact of degradation and damage due to irresponsible human activities. Excessive exploitation, illegal fishing and coastal and marine pollution occurring in Indonesian waters have caused damage to Indonesia's marine resources, such as mangrove forests, coral reefs, coastal and marine ecosystem habitats and degradation of fish quantities from Indonesian waters. The formulation of the problem is the protection and management of marine natural resources according to Islamic law in order to realize the benefits. This paper concludes that the protection, utilization and management of marine natural resources according to the Islamic view, develops the principle: ecological balance / i'tidal, useful creation / istishlah, inter-generational equity / sustainable utilization of natural resources, prohibition of excessive use of natural resources, the conservation of natural resources is a religious obligation, and the principle of the Government is authorized to regulate and enforce the law. Understanding of the principles of protection and management of marine natural resources in the view of Islam and making it the basis of regulation and policy is expected to give birth to two awareness of each citizen, namely state awareness (legal awareness) in line with religious awareness, that awareness of community law in protecting, managing, utilizing and conserving Indonesia's marine resources is a manifestation of its religious awareness. Efforts to protect and manage Indonesia's marine natural resources will bring optimal results in the welfare of all Indonesian citizens / citizens.

Keywords: Protection, Marine Resources Management, Islamic Law.

A. INTRODUCTION

Indonesia as the largest archipelagic country in the world with two-thirds of its territory is the ocean, is a gift of Allah abundant marine natural resources potential in the form of fisheries, mineral and energy mining, marine transportation and marine tourism are priceless which can properly be maintained and managed with the best according to the constitutional mandate to realize the prosperity of all Indonesian people. The facts show that the habitat of coastal and marine ecosystems of Indonesia is increasingly damaged, the natural resources of the sea are exploited in excess and unsustainable, and illegal fishing is rife.

The sea is one part of the earth's territory. As the Caliph of Allah, man has the right to manage the territory in order to benefit from it. The sea which is the gift of God is obliged to be preserved for the next generation who are also entitled to this gift. Exploration is required exploratory methods are balanced and proportional to avoid the occurrence of damage to the sea and its contents. Sea as a cheap means of transportation, also save a lot of natural resources that can be explored such as fisheries, mining, minerals, oil and gas, and so forth.

The potential of sea fishery is big enough to make Indonesia worth dubbed as a country rich in biodiversity (biodiversity) marine biological species. For the Indonesian nation, this potential is very strategic in development. However, the development carried out so far is more oriented in the mainland. This not only makes saturated land, but has serious impacts on the sea such as coastal pollution, mangrove forests decimated, coral reef destruction, and so on.

Among the marine resources, marine fisheries are one of the most important resources to support the life of the nation. So it is appropriate if the sea symbolized as a source of food in the future. As with other natural resources, marine fisheries resources are common property, which has been known since Roman times. The disadvantage of the nature of public property is that there is no limit to the number of fishing efforts, as long as they still provide economic benefits. In these circumstances, not only will the resources of the sea be depleted (biological inefficiency), but also the rate of fishery exploitation will become economically inefficiency.

The sea is one part of the earth's territory. The sea that God has given to humans in which it contains a variety of marine natural resources are very valuable, it is naturally explored, managed and utilized optimally, to meet the needs of life and welfare of the community. Management of marine potential professionally by the State can be used to support the National economy.

Indeed, human attention to life at sea is not limited to his scientific curiosity about the various types of life in it, so that later can be collected knowledge called marine biology. But that concern has begun long before humans realize that in the sea there are so many complex types of life. Since humans know the ocean, from then on he knows that the sea can not only be sailed to reach a continent he has not known, but also there is an abundant food source of edible fish. Now people know that the sea is not only a source of food and transportation media, but more than that the sea becomes a place of recreation, commercial fishery resources, mining, fresh water resources, power source, marine cultivation, biotechnology, and marine science development.¹

The oceans have an urgency in human life, which becomes the means of sailing ships that bring them benefits. The oceans contain an invaluable wealth of minerals, marine animals and precious stones and others that are human needs. Especially in today's increasingly felt the urgency of the ocean with the number of people who turn marine in digging and exploiting the wealth contained therein. So much of the human attachment to today's oceans encourages every Muslim to know the laws and views of Islam on the oceans.

Indonesia's natural resources both on the coast and in the middle of the sea faced with the fact of degradation and damage due to irresponsible human activities.² Excessive exploitation, illegal fishing and coastal and marine pollution in Indonesian waters have caused damage to Indonesia's marine resources, such as mangrove forests, coral reefs, coastal and marine ecosystem habitats and degradation of fish quantities from Indonesian waters. As an illustration, the Ministry of Environment's data on coral reef ecosystem damage is mainly caused by coral mining, explosion and use of toxic materials to catch ornamental fish, pollution and sedimentation derived from soil erosion can be found in almost all islands. Of 85,707 km² of coral reef ecosystems scattered throughout the archipelago, 39% were damaged, 34% slightly damaged, 22% good and only 5% very good.³ Components that can damage and pollute the sea such as chemical particles, industrial waste, mining, agriculture and housing, noise, or the spread of invasive (foreign) organisms in the ocean.⁴ As a result, Indonesia suffered significant losses and potential losses. President Joko Widodo estimates the state losses due to the illegal fishing action alone of 300 trillion annually.⁵

Jokowi and Jusuf Kalla's Action Program has committed to optimize its protection and management as a maritime economic potential for the nation's prosperity. The Vision, Mission and Action Program wants to make Indonesia as the world's maritime axis that provides protection and optimizes the management of marine resources to make Indonesia a sophisticated, prosperous and sovereign nation based on maritime economy, security and maritime culture.⁶

In order to realize these objectives, a legal framework is needed as a guideline and legal basis for the protection and management of marine natural resources in Indonesia to provide legal certainty and benefits to the entire community. The existence of a good

¹Kasijan Romimohtarto dan Sri Juwana, 2001, *Biologi Laut: Ilmu Pengetahuan tentang Biota Laut*, Jakarta: Djambatan, page. 409.

²QS.Ar-Ruum, 30 : 41 about, "It has been seen that the destruction on land and at sea is caused by the deeds of human hands, that God may feel to them some of their (consequence) deeds, that they may return (to the right path)".

³Pusat Kajian Sumber Daya Pesisir dan Lautan, IPB dan Kementerian Lingkungan Hidup, *Potret Kondisi dan Permasalahan Pengelolaan Sumberdaya di Wilayah Pesisir dan Laut*,Kementerian Lingkungan Hidup RI.<http://www.menlh.go.id/potret-kondisi-dan-permasalahan-pengelolaan-sumberdaya-di-wilayah-pesisir-dan-laut> diakses 14 Februari 2018.

⁴Pencemaran Laut Menurut PP No. 19 Tahun 1999 tentang Pengendalian Pencemaran dan/atau Perusakan Laut.

⁵Rzk, "Illegal Fishing Rugikan Indonesia Rp. 300 Triliun per Tahun", <http://economy.okezone.com/read/2015/03/02/320/1112504/illegal-fishing-rugikan-indonesia-rp300-triliun-per-tahun>; <http://www.kaltimpost.co.id/berita/detail/115462-nelayan-asing-diusir-dari-derawan.html>; <http://birokrasi.kompasiana.com/2014/12/06/lemahnya-data-perikanan-690635.html>; <http://www.tempo.co/read/news/2014/12/19/173629609/Susi-Kesal-Jutaan-Ton-Ikan-Dirampok-Tiap-Tahun>. acceed on 15 February 2018.

⁶Vision Vision, Mission and Action Program JokowiJusufKalla 2014 submitted to the KPU RI in the 2014 Presidential and Vice Presidential Election. Of the 7 missions that are the translation and achievement of the vision of "The Realization of a sovereign, Mandiri, and Personality Based on GotongRoyong", 3 among them (1st, 3rd, and 6th missions) demonstrates commitment to the realization of a strong maritime state and the welfare of the people. The 1st mission, realizing national security that is able to maintain the sovereignty of the region, sustains economic independence by securing maritime resources, and reflects the personality of Indonesia as an archipelagic nation. The 3rd mission, realizing a free-active foreign policy and strengthening identity as a maritime nation. The 6th mission, to realize Indonesia as an independent, advanced, strong, and nation-based maritime state.³ The mission is described in the following programs: strong Navy development, enhanced marine security, maritime infrastructure development and maritime industry, economic development maritime, as well as the strengthening and development of maritime culture.

legal framework, law enforcement is firm and non-discriminatory and supported by legal awareness of the community, then the legal problems on the protection and management of Indonesian marine natural resources community will be resolved. This is because the law serves as a social control and social engineering instrument.⁷ So far there have been many laws and regulations related to the protection and management of marine natural resources in Indonesia, but have not proven successful in halting illegal activities and degradation of the quality and quantity of Indonesia's marine potential. Based on the above background, the author is interested to write with the title "Efforts of Marine Resources Protection and Management According to Islamic Laws to Achieve Utilization". So how is the protection and management of marine natural resources according to Islamic law in order to realize the benefits.

B. DISCUSSION

The Qur'an is a holy book that discusses various sciences, one of which relates to oceanography. Oceanography is a branch of earth science that studies oceans or oceans. The sea as one of the pillars of natural resources in addition to the land and air of its existence is still not studied in depth, even if there is no holistic study, that is only studied only economic resources. So the in-depth study of marine is hard to find. Though not a few verses of the Qur'an that speaks of the oceans.

When reviewing the verses in the holy book of the Qur'an, then we will find verses that talk about the sea with no less than 38 verses and the sea is not less than 20 verses. This implies to us that the oceans and seas store deep meaning, so that so many verses in the holy book speak of it. One of the verses in the Qur'an that contains the sea is the letter Faathir verse 12, which means: "And no two (two) seas; which is fresh, fresh, savory to drink and the other salty again bitter. And from each of these oceans you can eat the fresh flesh and you can bring out the jewels you can wear, and on each of you you see ships sailing across the sea so that you may seek His bounty and that you may be grateful".

A fact that the surface of the planet Earth is estimated to reach 510 million sq km, is almost 2/3 of its part (about 70%) consist of ocean area.⁸ Only one third of the land area. The Indonesian marine territory itself, consists of 3 of 4 national territories that connects one island with another island. Given the condition of the territory of Indonesia that is so, then it is natural if in a crisis situation faced today, we begin to re-build the glory through the sea. The sea in addition to being a cheap means of transportation, it also stores a lot of natural resources that can be explored, including various sources such as manganese, cobalts, mineral mud, phosphorites, food sources such as fish and various marine plants; sources of chemicals such as sodium and potassium; source of energy from the waves and the conversion of heat energy. The sea is also a source of abundant petroleum and as a means of recreation and health.⁹

The reality of Indonesia is a maritime country, but lacks skilled workers in the field of kebaharian. For example, the number of fisheries and marine experts is still very limited. Therefore, universities need to pay attention to this issue to answer the needs of skilled fisheries and marine workers in the future.¹⁰ The fostering of fishing communities is also very alarming. They live in simplicity in almost all maritime settlements throughout the country. It is the duty of the Ministry of Marine Affairs and Fisheries to improve their welfare and standard of living so they can live properly.¹¹ The intended marine potential is marine and fishery resources that are very rich and diverse.¹² In general, these resources are renewable resources, such as fishery resources (capture fishery, cultivation, processing and biotechnology, mangrove), wave energy, tidal water; and there are also non-renewable resources such as oil and gas resources and various types of minerals. In addition to these two types of resources, there are also various marine environmental services such as marine tourism, maritime industry, transport services, and so on.¹³ This can all be developed and optimally utilized for the development of marine life in order to realize the national development.

Exploration of the concept of the sea from within the Qur'an needs to be done, so that people know how to manage, explore, and utilize the sea. So with that they get the welfare and happiness in his life. Idealism of Islam requires that the issue be restored and

⁷Satjipto Rahardjo, 1986, *Hukum dan Masyarakat*, Bandung: Angkasa, hal. 117-120; Donald Black, 1976, *The Behavior of Law*, New York; Academic Press, page 55

⁸Tim Penulis PTK BPPT, *Profil Kelautan Nasional Menuju Kemandirian*, (Bandung: Ilham Jaya, t.th.), page. 4. Compare with Mamat Ruhimat dan Bambang Utoyo, *Geografi*, (Bandung: Ganeca Exact Bandung, 1994), edition 1, page. 113

⁹A. Riza Wahono, "Challenges from the Marine Sector," *Kompas*, (Jakarta), Kamis, 4 Nopember, 1999, page.4.

¹⁰Currently only a few universities that have faculty or majors of fisheries and marine. While the human resources of this field is still needed to manage our rich oceans with various marine potential. See Sahala Hutabarat, "Fair Sea Utilization Prevents Disintegration of Nations," *Suara Pembaruan*, (Jakarta), Thursday, on 9 December 1999.

¹¹Sahala Hutabarat, *Ibid*.

¹² For example the total potential of Indonesia's marine fishery is 17.4 million tons of fish per year from the catching area of 5.8 million sq km (equivalent to 580 million hectares).

¹³ Ministry of Marine Affairs and Fisheries, *Marine Resources and Fisheries in National Economic Empowerment*, seminar paper, (Jakarta: Ministry of Marine Affairs and Fisheries, 2002), page 1

resolved based on the teachings contained in the Qur'an and Sunna.¹⁴ That way, the Qur'an serves as a guide for life and human life.¹⁵

The concept or view of Islam towards the protection, management, utilization and preservation of natural resources in general and especially marine resources, is basically built on the following principles: 1. holistic / tawhidic; 2. Khilafah; 3. Trust; 4. ecological balance / i'tidal; 5. useful creation / istishlah; 6. inter-generational equity / sustainable utilization of natural resources; 7. prohibition of excessive use of natural resources; 8. Natural Resource Conservation is Religious Liability; and 9. The Principles of Authorities Governing and Enforcing the Law.

1. Holistic & Tauhidic (God's Divine Principles)

Islam's view of the environment and natural resources is holistic (comprehensive), which includes ethics and monotheism which is at the heart of the teachings of the Qur'an.¹⁶ Tawheed is the highest concept in Islam and the way of life of Islam.¹⁷ For a Muslim, the ethics of Islam (morals) and monotheism are very important, final and non-negotiable. Therefore, the issue of natural resources, economy and other technical matters, should always be within the framework of applying the principle of monotheism ie the affirmation that Allah is Almighty; Creator of the entire universe; and the ultimate goal back to God.¹⁸ Tawhid taught us that only Allah SWT is the source of all values.¹⁹

According to the monotheistic approach in Islam, every thing that exists between the earth and the sky is Allah's creation,²⁰ did not evolve by itself according to Darwin's Theory. The universe, including the world in its entirety, is an empirical reality that does not stand alone, but relates to another non-empirical and transcendent reality, that is, Allah Almighty, the Creator.

Allah is the Creator (Khaliq) and Sustainer (Rab) and all living beings are Allah's creation (makhlūq) who must obey Him (mahkūm), the creation of the universe also has a purpose and order. Allah created the universe is not kidding, every creation must play the role that has been assigned to him. All of them worship Allah and eventually return to Him.²¹

The context of this God's Essay is that God is different from His creatures (al Mukhalafatu lil al hawadist). God is an infinite and absolute "dimension". Whereas all makhluk of His creation are finite and relative. The universe (including humans) has certain potentials, but also has a limit of ability or extent. However high the potential of beings (nature and human), will not be able to make or change the infinite into infinity. It is this concept which in some verses of the Qur'an states that every thing God's creation has a "measure" (qadr), and is therefore relative and dependent upon God.²² If something of Allah's creation (including man) violates the laws that have been established for him and transcends his "measure", then the universe will become chaotic.

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Tawheed or God's oneness is the only source of value in ethics. Violation or denial of this value of ketauhidan means shirk which is the biggest sinful act in Islam. Therefore monotheism is the basis and reference for every act of man, both the act of birth and inner deeds including thinking. For a Muslim, monotheism must penetrate into all aspects of his life and become his view of life. Tawhid is a source of personal and group ethics (societal), social, economic, and political ethics, including ethics in natural resource and environmental management, scientific and technological development.²³

¹⁴QS. al-Nisa' (4):59; QS. Ali 'Imran (3):139; QS. al-Taubah (9):40

¹⁵ The Qur'an is revealed with three main purposes, namely as a guide for man, as a sign of proponents of the Prophet's truth, and that people worship God by reading it.

¹⁶Ziauddin Sardar, 1988, *The touch of Midas: Science, Values and Environment in Islam and the West*. Selangor: Pelanduk Publications, 1988.

¹⁷*Ibid.* page 155.

¹⁸Vide QS. Fushshilat, 41: 21 (“.. and He Who created you in the first time and only unto Him you are returned”)

¹⁹Vide QS. Al-Qashash, 28: 70 (“And He is God, there is no God (the righteous but Him, to Him praise in the world and the Hereafter, and only to Him you are returned”).

²⁰Vide QS. Al-Furqan, 25: 59 (“(He) Who created the heavens and the earth and what is between them...”).

²¹Abdul Haseeb Ansari and Parveen Jamal, “*Toward an Islamic jurisprudence of environment: An expository study*,” Religion and Law Review – Vol. X-XI: 2001-2002, page.83-84.

²²Vide QS. Al-Qamar, 54: 49; Al -A'raf, 7: 54; Al-A'la, 87: 2-3; Ya-sin, 36: 38-40.

²³Adnan Harahap, Ishak Manany, Isa Anshari dkk. 1997, *Islam dan Lingkungan Hidup*, Jakarta: Yayasan Swarna Bhumi.

2. Khilafah (God's Representative Principle)

Among the greatest themes in the Qur'an is about the creation of man. Philosophically, the Qur'an explains purpose, meaning, and human life. The purpose of creation that establishes the absolute obligation that must be exercised by man, namely the fulfillment and realization of the divine will. As God's supreme (perfect) creation,²⁴ man has been endowed with all the essential abilities²⁵ in the form of physical, psychological (moral), intellectual (aql), and spiritual (Allah's guidance)²⁶ favors for a special mission as khalifah of Allah (khalifatullah). Man is God's supreme creation, theomorphic being, and even God commands an angel to prostrate the sign that man is God's supreme creation. This is stated in the Qur'an:

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Remember when your Lord said to the Angels: "I will make a caliph in the earth". They said: "Why are you going to make the Caliph on earth the one who will make the damage to him and shed blood, while we always glorify and praise you and sanctify you?" The Lord said: "I know what you do not know."²⁷ Man can not do something arbitrarily because his job is to fulfill the will of the Authority who has been delegated to him. And it will be a lie and betrayal, if man does something that is contrary to the provisions of his Lord.²⁸

As khalifatullah (representative of Allah) on earth, man is obliged (actively) to be able to represent himself in accordance with the attributes of God. One of God's attributes to nature is to be a caretaker or guardian of nature (al-rab al'alamīn). So as the representative (khalifah) of Allah on earth, man must be active and responsible to maintain the function of the earth as a place of life of God's creature including man, while preserving the sustainability of his life.

3. Trust (God's Trust Principle)

Nature is a human testing ground. Man, of his own accord, accepts nature as trust (amanah) and as a place of moral struggle. Meanwhile, the heavens, the earth and the mountains refuse to assume the responsibility.²⁹ By accepting trust, man undoubtedly shows folly and arrogance but also his willingness to serve God's purposes. Belief is a shared commitment between man and God as his Creator: God entrusts man to managing nature and reveals his belief in man's abilities as set forth in the last part of verse 30 of QS. Al-Baqarah when Allah reassures the angels by saying "Inni a'lamu ma la ta'lamūn" ("I know what you do not know"). Therefore humans occupy a very important position in this world. He is in the axis and center of the cosmic environment, as well as the managers and guardians of nature.

According to Islam, if there is damage of natural resources on earth (on land and at sea) is caused by human hand which neglect to run trust (amanah) as the representative of God (khalifatullah) on earth. QS. Ar-Rum, 30: 41 affirms: "It has been seen that the destruction on land and at sea is caused by the deeds of the hands of men, that God may feel to them a part of their (deeds), that they may return (to the right path).

4. Ecological Balance / I'tidal (Principles of Ecological Balancing)

The idea of ecological balance that has been emphasized by the world community since the eighties as one of the bases for environmental protection, is also the main teaching of Islam on the environment.³⁰ The Qur'an teaches that Allah has created the universe in proportion and size, both quantitatively and qualitatively. The laws of God's creation include an element of order, balance and proportionality.³¹ Allah has declared in the Quran: "Verily, all things We have made by measure";³² "Everything with His side has its size."³³ "And We have spread the earth and made it mountains, and We have created for him every thing by measure";³⁴...

You do not look at God's merciful creation of something unbalanced ...³⁵

²⁴QS. At-Tīn, 95: 4

²⁵Ziauddin, n. 3, page 156.

²⁶Fathi Osman, 1997, *Concept of the Qur'an: A Topical Reading*, Kuala Lumpur: ABIM, 1997.

²⁷QS. Al-Baqarah, 2: 30.

²⁸S.Abul A'la Maududi, 1992, *The Meaning of Quran*, Vol.1, edisi ke-12, Lahore:.. Publikasi Islam (Pvt) Ltd, 1992.

²⁹Vide QS. Al-Ahzab, 33: 72

³⁰Fazlun M Khalid, 2002, "Islam and the Environment", in Peter Timmerman (ed), *Encyclopedia of Global Environmental Change*, Volume 5: Social and economic dimensions of global environmental change Chichester: John Wiley & Sons, Ltd., page 332–339.

³¹QS., al-Qamar, 54: 49

³²QS., ar-Ra'd, 13: 8

³³QS., al-Furqān, 25: 2

³⁴QS., al-Hijr, 15: 19

³⁵QS. Al-Mulk, 67: 3

The verses of the Qur'an above mention about the size, order and balance of God's creation. The natural environment comprising elements of soil, water, air, plants and animals is created in line with the concept of proportionality, purpose and balance. Various elements of the natural environment influence and interact with each other. If any element of natural resources is used excessively (excessive), then other elements of natural resources will also be disrupted. And who will most feel the impact of natural imbalance is human, because pollution and natural damage will ultimately interfere with the survival of human life.³⁶ Over-exploitation and illegal and unsustainable use of marine resources have caused disruption to the balance and sustainability of marine resources.

5. Useful Creation / Istishlah (Utilization Principle)

No God's creation is useless. God does not play in His creation. Everything that God created is right and with a certain purpose (benefit). "And We did not create the heavens and the earth and what is between them by playing. We do not create both but with haq, but most of them do not know."³⁷

Al-istishlah or kemashlahatan general is one of the main pillars of Islamic sharia including in the management of natural resources. God explicitly and explicitly forbids human beings to do acts that are destructive to the environment including the destruction of human life itself, after God make improvements (ishlah).³⁸

The purpose of the protection and management of natural resources and ecosystems is the universal welfare (istishlah) (for all beings). The gift of God in the form of the creation of the sea with all the natural wealth in it is for the benefit (welfare) of man as revealed by Allah in QS. An-Nahl, 16:14 as follows: "It is He Who hath subdued the sea (for you), that ye may eat from it fresh flesh (fish), and ye remove from the sea the jewels which ye wear; and ye see the ark sail unto him, and that ye seek (profit) from his bounty, and that ye may be grateful. "

6. Inter-generational Equity / Sustainable Use (Principles of Sustainability)

Islamic ethics related to the protection and management of natural resources (including marine resources) lies firmly on the notion of khilafah (vicegerency) and guardianship (amanah). The heavens and the earth and everything contained therein belong to God and have been given to man as trust.³⁹ As a trustee, man is obliged to maintain a harmonious relationship with nature. Human beings are obliged to manage the earth according to the purpose intended by the Creator for the benefit of his / her own self and the interests of other created beings. Existing natural resources are for the benefit of present and future generations (Inter-generational Equity). This task clearly shows the idea of generational equations. If natural resources are excessively used of natural resources and not used sustainably, it will not be able to provide any benefits for future generations (inter-generational equity). This will be a violation of God's command.⁴⁰

7. Prohibition of Excessive Use of Natural Resources (Prohibition Principle of Excessive Exploitation of Natural Resources)

Islam forbids its people to exploit or exploit the natural resources in excess.⁴¹ On the contrary Islam urges its people to utilize natural resources wisely and sustainably. Human beings, especially Indonesian citizens have no right to cause damage and pollution to marine natural resources. Nor does it have the right to exploit or use the natural resources of the sea with unwise (prohibition of excessive use of natural resources).⁴² All exploitation activities that leave damaging effects on marine natural resources are ultimately the reason for the destruction and threatened habitat of marine ecosystems, such as the destruction of mangrove forests, coral reefs, pollution of marine natural resources is clearly prohibited in Islam.

8. Conservation of Natural Resources is a Religious Obligation

Religious awareness is required for every individual to take part in the protection and management of the environment and natural resources. Environmental degradation and Natural Resources are largely due to people's ignorance about the guidance of the Creator. Every individual should be aware that environmental conservation and Natural Resources are the religious duties demanded by God. Allah has said: "... and do good (to others) as God has done good to you, and do no corruption in the (face) of the earth. Allah loveth not those who do mischief."⁴³ "... eat and drink, and do not overdo it. Lo! Allah loveth not excessively."⁴⁴ "And obey not the commands of those who cross the line, who make mischief in the

³⁶ *ibid.* page 16

³⁷ QS. Ad-Dukhan, 44: 38-39

³⁸ QS Al-A'raf, 7:56 ("And do not make mischief in the land, after (Allah) repair it.")

³⁹ Ziauddin, *op.cit*, page 157.

⁴⁰ Abdul Haseeb Ansari, "Socio-legal issues in biodiversity conservation: Critical assessment with special reference to Malaysia", 4 (2001) MLJ xxii.

⁴¹ QS. Al-An'am, 6: 141 (".. and do not exaggerate. Allah loveth not the excess..")

⁴² Abdul Haseeb Ansari, *loc.cit*

⁴³ QS. Al-Qasas, 28: 77

⁴⁴ QS. Al-A'raf, 7: 31

land and make no improvement"⁴⁵ "And let there be among you a group of people calling for righteousness, enjoining the maqruf and preventing from evil; they are the lucky ones."⁴⁶

Islam encourages people to raise their religious awareness and guided the Islamic guidance to use every means to invite all individuals to commit to Islamic ethics, morals and behavior in treating nature, environment and natural resources for the sustainability of its use. Everyone should be reminded of the religious obligation to: Not wasting or consuming excessive natural resources; Realizing that all acts of destruction of natural resources there are unlawful acts; Not doing any form of destruction, misuse, degradation of the quality and quantity of the environment and natural resources in any way; and Conduct the concept of sustainable development.⁴⁷

9. Principles of Authorized Governments Governing and Enforcing the Law

Islam forbids human beings from committing acts that cause pollution / pollution, destruction and excessive exploitation of natural resources. The act is categorized as vitiation (fasād) on earth.⁴⁸ In order to avoid damage and realize the sustainable management and utilization of natural resources, Islamic Law provides a justification to the Government to intervene in controlling and enforcing the law for the benefit and interests of society in general. The justification of the Government's intervention is found in the Islamic Law Rule (qawāid fiqhīyah) which reads: "Tasharruful imām 'alā al-ra'īyah manūthun bi al-mashlahah"⁴⁹ (Leaders' intervention against the people is possible as long as it is intended for the benefit of the people).

All preventive and repressive instruments aimed at conserving natural resources are in line with Islamic views on the protection, management and utilization of natural resources. The jurists (Muslim jurists) agree on the principle of Islamic Law which expresses the māāāāāāāā al-wājib illā bihī fahuwa wājib (what is required in performing an obligation, so it is also obligatory).

Based on the above, then with the aim of realizing the protection, security, management and utilization of marine natural resources sustainably for the greatest prosperity of the people, the Government (Negara) 'can' and even 'mandatory' make various policies, issuing regulations, and enforce including but not limited to the stipulation of criminal sanctions for the drowning of ships engaged in illegal fishing in Indonesian waters. The application of the provisions on such criminal sanctions -as long as decided by the court-is possible in Islamic Law under the provisions of ta'zir.

The punishment in the form of the ta'zir's finger is not determined by its degree and size, meaning that the determination of the high and low of a punishment is left entirely to the judge (ruler). Thus, syar'iat authorizes the judge to determine and decide on forms and punishments in the ta'zir's finger,⁵⁰ even up to the death penalty. QS. Al-Maidah / 3 verse 33 affirms the punishment of those who make mischief on earth, including the destruction of natural resources as follows: "Verily vengeance against those who wage war against Allah and His Messenger and make mischief on earth, killed or crucified, or cut off their hands and feet on a reciprocal basis, or thrown out of the land (his residence). That is (an) an affront for them in the world, and in the Hereafter they shall be subject to great tribulation."

If the principles of holistic / tawhidic, khilafah, and amanah, combined with the principle of ecological balance / i'tidal, useful creation / istishlah, inter-generational equity / sustainable utilization of natural resources, prohibition of excessive use of natural resources, Religious obligations, and the principle of Government Authority to Regulate and Enforce the Law, this unity will form a comprehensive (comprehensive) "building" (concept) of the theology of marine natural resource management in an Islamic perspective. If this framework is applied fully as a form of citizenship awareness and the theological awareness that human beings are khalifatullah in the earth, then the problem of destruction and degradation of the quality and quantity of our marine resources will be more easily overcome. Sea Source of Halal, Delicious and Nutritious Food.

The need for food obtained by humans on land is increasingly felt decreased from day to day. This is due to the rapid increase of the world population, so that not only food producing land such as forests, rice fields, ponds and beaches are reduced because they are converted into residential areas and other necessities, but also the production of food is not sufficient to meet their needs. Sea as the environment of various types of marine biota has the potential to be a source of abundant food. This certainly offers a great opportunity for humans to be utilized. Actually marine biota as a biological resource has been centuries of human

⁴⁵QS. Ash- Shuara', 26: 151-152

⁴⁶QS. Al-Imran, 3: 104

⁴⁷Abubakr Ahmed Bagader, et.al, 1994, "Environmental Protection in Islam", IUCN Environmental Policy and Law Paper No. 20 Rev.

⁴⁸QS. Al-Qasas, 28: 77

⁴⁹Al-Suyuti, 1998, *al-Ashbāh wa an-nadhāir fī qāwaid wa furū fiqh ash shāfiyyah*, Beirut: Dar al Kitab al-Araby, page 233

⁵⁰Makhrus Munajat, *Dekonstruksi Hukum Pidana Islam*, Cet. 1, Yogyakarta: Logung Pustaka, 2004, page 13.

use through fisheries activities that are increasingly growing day, both seen from the region and the intensity of his capture.⁵¹ The discussion of the sea as a source of halal, delicious, and nutritious food here is focused on information that can be extracted from the QS. al-Ma'idah (5/112): 96. It is permissible for you sea animals and food (originating) from the sea as a delicacy for you and for those traveling.⁵² Allah SWT provides information in the QS. al-Nahl (16/70): 14 And He is the God who subdue the sea (for you) so you can eat from it fresh meat (fish).⁵³ The above paragraph is a keyword that indicates one of the various potentials of marine, namely in the form of fisheries that can be explored from the sea and utilized. From these clauses it can be understood that with the subduing of the sea by God, man can fulfill his life's needs by fishing and catching the fish that are in the sea, and Allah allows him to be consumed by human beings, both in living and dead conditions. In connection with the description of the fresh meat (fish), the omnipotence of God in removing something delicious from something salty, and the fish are immediately processed (cooked), so as not to become damaged. It is also a series of God's blessings given to mankind so that they may give thanks to Him.

Marine products, especially fish, have a very important role and position as a source of nutrition. Fish have a fairly high protein content (wet about 17% and 40% dry) and have a pretty good nutritional order. Fish is also a good source of vitamin A, iron, iodine, zinc, selenium, and calcium all of which are related to micronutrient deficiencies. With these nutrients, fish have good potential to cope with malnutrition problems, such as lack of energy and protein, lack of vitamin A, nutritional anemia and less iodine-related disorders that are the main nutritional problems in Indonesia. Fatty fish content is generally low compared to other animal foods and some fatty acids in fish in the form of omega-3 fatty acids are essential for the growth and development of nerve cells including brain cells in babies that lasted the first two years,⁵⁴ and also useful for preventing hypercholesterolemia associated with some degenerative diseases.⁵⁵

Along with scientific and technological advancements, several advanced industrial countries such as Japan and some western countries have tried to use the sea as an alternative energy source by utilizing sea water tides as turbine power generators. Another alternative energy generated from the ocean is sea waves. The energy contained in ocean waves is the sum of the kinetic energy and potential energy, which can be used to drive the turbine to generate electrical energy. Wind is an alternative energy source in the ocean, which can be used to drive windmills or propellers, which are connected with the rotor to generate electrical energy. While the heat energy in the sea or better known as OTEC (Ocean Thermal Energy Conversion), can be used as a source of electrical energy.

The sea and its potentials are essentially God-given grace destined for mankind. This conferment gives consequences for human beings, as God's khalifah on earth, has the right of management by exploring the sea to benefit from it, in addition to having the responsibility (obligation) to make conservation efforts to maintain ecological balance. Such conservation efforts can not only

⁵¹Kasijan Romimohtarto dan Sri Juwana, 2001,*Biologi Laut : Ilmu Pengetahuan tentang Biota Laut*, Jakarta: Djambatan, page 409

⁵²Departemen Agama RI., Al Qur'an, page 178

⁵³Departemen Agama RI., Al Qur'an, page 404

⁵⁴Infancy lasts for the first two years after the newborn period of two weeks. Babies are growing rapidly, both physically and psychologically. With this rapid growth, change not only happens in appearance, but also in capabilities. Despite the rapid growth occurring in the entire period of infancy, however, the fastest is within the first year. See Elizabeth B. Hurlock, *Developmental Psychology: A Life-Span Approach*, translated by Istiwidayanti and Soedjarwo under the title *Developmental Psychology: An Approach Throughout the Life Range*, 5th edition, (Jakarta: Erland, t.th.), page 76- 77

⁵⁵Fish as food has many uses in relation to the nutrition of the people. However, the utilization of fish as the main food ingredient in the family is still limited to the upper middle society group. In the poor, fish consumption is still below the minimum requirement. One important factor in influencing the quality of human resources is the nutritional factor as found in fish. This is based because nutrition has a close relationship with the number of diseases and the occurrence of death. Health and nutrition has a significant role and contribution in the nation's intellectual efforts as well as supporting the increase of productivity and creativity of the population. Healthy workers who eat nutritious food physically and mentally are more energetic than unhealthy and malnourished labor, and therefore more productive and innovative.

The development of health and nutrition is basically an integral part of national development, because health and nutrition is one aspect of human basic needs. In order to develop the quality of Human Resources is considered very necessary to improve the health status and nutrition of the community as a whole. The future health problems are colored by the demographic changes experienced by the Indonesian population as a result of declining fertility and mortality rates that are driving the proportion of population changes by age group. In addition we will face multiple health and nutrition problems, in addition to health problems and less nutrition associated with infectious diseases, will also be found the problem of non-communicable diseases accompanied by more nutritional conditions. See also NurNasry Noor, "Marine Community Development; A Nutrition Review ", One Day Seminar Paper, welcomed IAIN Alauddin Ujung Pandang's 29th Dies Natalis. November 5, 1994, page 1 and 6

preserve the ecological sustainability of the marine environment, but also the survival of human life itself over the long term, especially future generations who also have the right to this gift. Therefore, for the purpose of exploration required precise, balanced and proportional exploration methods to avoid damage to the sea and its contents. Thus, man should not only see the sea as an object for "self-enrichment" for a single generation (his own generation), regardless of the needs of future generations. The relationship of the sea and human existence according to the Qur'an can be explained that Allah SWT. creating human beings on this earth and providing a very high position and function for managing and managing the earth (in this case managing the sea) to be taken advantage of.

The concept of the Caliphate made environmental factors a major consideration in the planning and implementation of development. That way he does not exploit nature in a big way for the benefit of humans. The concept of the Caliphate is transcendent. This means that human mastery of the environment is a mandate from God, not absolute and will be accountable to Him. That is why the principle underlying the relationship between man and nature is not only an exploitative relationship, but also appreciative.

The Unitary State of the Republic of Indonesia as an archipelago country has abundant natural resources which is the grace and grace of God Almighty for all Indonesian nation and state which must be managed continuously to advance the general welfare as mandated in the 1945 Constitution of the Republic of Indonesia. It implies the spirit of religiosity which should be realized as the understanding, awareness and attitude of the whole society in maintaining, managing, utilizing and conserving Indonesia's marine resources as the basic capital of national development. Compliance of the people to run the regulations in the field of marine, not only because of citizenship obligations, but also a manifestation of the awareness and adherence to the values and orders of religion (religious obligations) that are immanent and transedental.

C. CONCLUSION

Protection, utilization and management of marine natural resources according to Islamic view, develops principles: ecological balance / i'tidal, useful creation / istishlah, inter-generational equity / sustainable utilization of natural resources, prohibition of excessive use of natural resources, Nature is a religious obligation, and the principle of Government is authorized to regulate and enforce the law. Understanding of the principles of protection and management of marine natural resources in the view of Islam and making it the basis of regulation and policy is expected to give birth to two awareness of each citizen, namely state awareness (legal awareness) in line with religious awareness, that awareness of community law in protecting, managing, utilizing and conserving Indonesia's marine resources is a manifestation of its religious awareness. Efforts to protect and manage Indonesia's marine natural resources will bring optimal results in the welfare of all Indonesian citizens / citizens.

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