



REVIEWING THE CONCEPT OF FIQH AL-BI'AH IN LAW ENFORCEMENT AGAINST ECOCIDE PERFORMERS IN INDONESIA

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ABSTRACT

The formulation of environmental fiqh (fiqh al-bi'ah) is essential to do in order to provide a paradigm (the foundation of thinking) and enlightenment that fiqh is not only concerned with ubudiyah and muamalah issues, but fiqh discussions both from the aspect of rules and values must be relevant. With religious principles to the various social realities of life that are constantly evolving, the law against ecocide perpetrators can be enforced. This study aims to analyze and examine the concept of fiqh al-bi'ah in law enforcement against ecocide perpetrators in Indonesia. This research is research in the field of law with a normative juridical approach. In the Nahdlatul Ulama fatwa at the 29th Nahdlatul Ulama Congress in Cipasung Tasikmalaya in 1994, it was stated that "the law on polluting the environment, both air, water, and soil and the balance of the ecosystem if it is dangerous is haram and includes a criminal act (jinayat)." In principle, the enforcement of criminal penalties for ecocide perpetrators is based on two ways, namely: repressive penalties and preventive non-penalties. Al-Maidah verses 32-33 and Law No. 32 of 2009 presumably can be used as a reference for punishment for recalcitrant ecocide perpetrators and are never deterred by existing punishments.

Keywords: environmental law, islamic law, ecocide, environmental damage, fiqh al-bi'ah.

RESUMO

A formulação do fiqh ambiental (fiqh al-bi'ah) é essencial para fornecer um paradigma (o fundamento do pensamento) e esclarecimento de que o fiqh não se preocupa apenas com questões de ubudiyah e muamalah, mas com discussões de fiqh tanto do aspecto de regras e valores deve ser relevante. Com princípios religiosos para as diversas realidades sociais da vida que estão em constante evolução, a lei contra os perpetradores do ecocídio pode ser aplicada. Este estudo visa analisar e examinar o conceito de fiqh al-bi'ah na aplicação da lei contra os perpetradores de ecocídio na Indonésia. Esta pesquisa é uma pesquisa na área do direito com uma abordagem jurídica normativa. No Nahdlatul Ulama fatwa no 29º Congresso Nahdlatul Ulama em Cipasung Tasikmalaya em 1994, afirmou-se que "a lei sobre a poluição do meio ambiente, tanto do ar, da água e do solo e o equilíbrio do ecossistema, se for perigoso, é haram e inclui um ato criminoso (jinayat)." Em princípio, a aplicação de sanções penais para os autores de ecocídios





baseia-se em duas vias, a saber: penas repressivas e não penas preventivas. Os versículos 32-33 de Al-Maidah e a Lei nº 32 de 2009 presumivelmente podem ser usados como referência para punição para perpetradores de ecocídio recalcitrantes e nunca são dissuadidos pelas punições existentes.

Palavras-chave: direito ambiental, direito islâmico, ecocídio, dano ambiental, fiqh al-bi'ah.

1 INTRODUCTION

Talking about environmental law in Indonesia, ecocide is not used as a language to describe criminal acts that damage the Environment, a term to express acts in such a way known as environmental crimes or environmental offences. Environmental offences themselves have the meaning as an order or prohibition of the law on legal subjects which, if violated, are threatened with the imposition of criminal sanctions: imprisonment and fines to Protect the environment as a whole, as well as the elements contained in the Environment, both biotic and abiotic components. Such as animals, humans, land, water, and air. The environmental offence is formulated through Law Number 32 of 2009 concerning Environmental Protection and Management. All criminal provisions are formulated as long as the formulation of these provisions aims to protect the environment as a whole or the parts contained therein (Setiyono & Natalis, 2021).

Human hands' actions in interacting with their environment have resulted in damage that occurs on the surface of this earth (Briffa et al., 2020). Islam, which is a perfect divine religion (kaffah) and based on the holy Qur'an, always teaches its people to act wisely towards nature as a deposit from Allah and never allow damage to the earth's surface (Kodir & Sonjaya, 2016).

The Qur'an has clearly explained that all types of damage that occur on the surface of the earth are the result of human actions and actions. As in QS. Al-Rum verse 41:

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Meaning: "It has been seen that damage on land and at sea is caused by the actions of the hands of (ignorant) humans, so that Allah may feel for them some of the (results of) their actions so that they return (to the right path)." (Surat al-Rum: 41).





The verse above should be used as material for introspection for humans as creatures who get the task from God to manage and maintain the environment correctly and adequately so that there is no natural damage on this earth because the good and bad of the environment will later return to humans in the world earth (Fathil et al., 2015).

The government has also issued Law Number 32 of 2009 concerning Environmental Protection and Management as ceremonial law. A good and healthy environment is a human right for every Indonesian citizen. As stated in Article 28H of the 1945 Constitution of the Republic of Indonesia (Nugroho, 2021).

Two things generally cause changes and environmental problems currently faced by humans: First, natural events occur due to natural processes themselves (Lerche, 2001). Second, the consequences of human actions and actions that interfere with nature, whether planning, development or unplanned (Michael, 2002). It is undeniable that all elements must be involved in efforts to preserve the environment in Indonesia. As a religion embraced by the majority of the world's population, Islam has a conceptual formula that focuses on studying environmental issues known as *fiqh al-bi'ah* (Mangunjaya & Praharawati, 2019).

Thahir bin Asyur explained in the interpretation of *at-Tahrir wa at-Tanwir* that what is meant by "doing damage to one part of the environment is to destroy the environment as a whole". According to Yusuf al-Qardhawi, protecting the environment is the same as protecting the mind, soul, lineage, and property. The rationale is that if the aspects of reason, soul, lineage, and property are damaged, human existence in their environment will be tarnished (Rahmayati et al., 2022).

In this context, the formulation of environmental *fiqh* (*fiqh al-bi'ah*) becomes very important to provide a paradigm (the foundation of thinking) and enlightenment that *fiqh* is not only concerned with *ubudiyah* and *muamalah* issues but also *fiqh* discussions both from the aspect of the rules and regulations. Moreover, values must be relevant to religious principles to the various social realities of life that are constantly evolving so that laws against ecocide perpetrators can be enforced.





2 RESEARCH METHODS

This research is research in Islamic law with a normative juridical research approach. According to Marzuki (Marzuki, 2017), normative legal research finds the rule of law, legal principles, and legal doctrines to answer the legal issues faced. In this type of legal research, the law is often conceptualized as what is written in statutory regulations. The law is conceptualized as a rule or norm that is a benchmark for human behavior that is considered appropriate. The data used in this research is secondary data collected through a literature study.

3 RESULTS AND DISCUSSION

3.1 FIQH AL-BI'AH ARGUMENTATION

Fiqh al-bi'ah comes from combining the words "fiqh" and "al-bi'ah". Each has a meaning, "understand" and "environment" (Gade, 2012). In terms of terminology, the combination of these two words has meaning; "The law of responsible behavior for the problem of human behavior is useful for regulating life together so that the benefit can be realized, which is oriented to the mission of environmental conservation and restoration" (Jenkins, 2005).

The above definition is based on four main points of fiqh teachings, namely (Yafie, 1992):

- a. Rub'ul Ibadat, which is the part that regulates between humans as servants and Allah the Lord.
- b. Rub'ul Mu'amalat, which is the part that regulates relationships. Humans with humans,
- c. Rub'ul Munakahat, which is the part that regulates human relations in the family environment.





d. Rub'ul Jinayat, which is the part that regulates the orderliness of human activities by ensuring safety, peace and prosperity in life.

These four main outlines of fiqh teachings regulate the main areas of human life in creating a clean, healthy, friendly, prosperous, safe, physically and mentally happy living environment and the hereafter. In religious terms, it is usually called sa'adatud darayn (the happiness of the hereafter) (Utama et al., 2019).

Like the social fiqh introduced by Sahal Mahfudh, the term fiqh al-bi'ah is a new category in the discussion of fiqhiyah science (Asmani, 2007). Fiqh al-bi'ah cannot be found in the discussion of classical fiqh because fiqh al-bi'ah is the development of the scope of study on classical fiqh, which focuses more on one theme, namely the theme of the environment (al-bi'ah). Indeed, fiqh al-bi'ah does not have a strong backing in classical fiqh, but according to the rules, theory and methodology of fiqh al-bi'ah, it was developed from classical fiqh. Thus, methodologically and the discussion style still uses the methodology used in classical fiqh, for example, regarding legal sources taken from the Qur'an, Hadith and ijma' scholars. From jurisprudence, there is no difference between classical fiqh, such as worship fiqh and mu'amalah fiqh, except in the scope of the discussion which has developed (Muniri Muniri, 2017).

In the view of Yusuf al-Qardhawi, the content of fiqh al-bi'ah is an effort to realize the benefit and prevent harm. This is in line with maqasid al-shari'ah (the purpose of religious law), which is formulated in the kulliyat al-khams, namely: hifdhu al-nafs (maintaining the soul), hifdhu al-'aql (maintaining reason), hifdhu al-mal (keeping property), hifdhu al-nasb (maintaining offspring), hifdhu al-din (guarding religion) (Saputra et al., 2021). Maintaining the beauty and preservation of the environment, according to him, is a requirement to maintain the five objectives of the Shari'a. Therefore, all behaviours that lead to environmental destruction are tantamount to actions that threaten life, reason, property, lineage, and religion (Aravik et al., 2020).

Environmental Jurisprudence views the relationship between humans and the natural environment as an inseparable unit (Anggriawan Wisadha & Widyaningsih, 2018). Humans who are created from the elements in the universe are proof that humans are an inseparable part of nature (Seymour, 2016). Humans are gifted with reason and spiritual





abilities; these are the capital to carry out their duties as caliphs on earth to preserve nature, which means preserving human existence (Kadir et al., 2021).

3.2 NORMATIVE FOUNDATION OF FIQH AL-BI'AH

Al-Qur'an and Hadith, as sources of Islamic teachings, explain many environmental issues. There are several verses of the Qur'an and Hadith that have a functional correlation with the recommendation to protect the environment (Jamil & Haddad, 1999):

a. The verses of the Koran about the environment

1) Quran Surah Ar-Rum verse 41

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Meaning: "It has been seen that damage on land and at sea is caused by the actions of the hands of (ignorant) humans, so that Allah may feel for them some of the (results of) their actions so that they return (to the right path)." (Surat al-Rum: 41).

This verse is a reference from the Qur'an about environmental damage on land and at sea due to the actions of negligent humans. The explanation in the Qur'an letter al-Rum verse 41 is by the facts that have existed since technology has penetrated and supports the acceleration of development in all parts of the world.

2) Quran Surah Al-Waqi'ah verses 68 – 70

(لَوْ نَشَاءُ جَعَلْنَاهُ أَجَاجًا فَلَوْلَا تَشْكُرُونَ69) أَلَأَنْتُمْ أَنْزَلْتُمُوهُ مِنَ الْمُزْنِ أَمْ نَحْنُ الْمُنزِلُونَ (68) أَفَرَأَيْتُمُ الْمَاءَ الَّذِي تَشْرَبُونَ)70(

Meaning: "So explain to me about the water you drink. Did you send it down or did We send it down? If We wished, We would have made him salty, so why are you not grateful?" (Quran Surah: Al-Waqi'ah verses 68-70).

This verse has been a reference in the Qur'an about acid rain due to air pollution by industrialization processes, forest fires, nuclear waste and others for centuries. The





acid rain mentioned in the Qur'an finds its relevance in the phenomenon of environmental damage.

3) Quran Surah Al-A'raf verse 56

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا وَادْعُوهُ خَوْفًا وَطَمَعًا إِنَّ رَحْمَتَ اللَّهِ قَرِيبٌ مِّنَ الْمُحْسِنِينَ

Meaning: "And do not make mischief on the earth after (created) well. Pray to Him with fear and hope. Verily, Allah's mercy is very close to those who do good." (Surah Al-A'raf verse 56).

This verse explains that the Qur'an also provides a landmark regarding the role of humans, who tend to be perpetrators of destroying the earth through irresponsible (anthropogenic) natural exploration. The exploitation of this earth is not only to meet subsistent needs but also to meet modern humans' greed. This has been criticized as a spiritual crisis of modern humans that they have left the divine spirit.

4) Quran Surah. Al-An'am verse 38

وَمَا مِنْ دَابَّةٍ فِي الْأَرْضِ وَلَا طَائِرٍ يَطِيرُ بِجَنَاحَيْهِ إِلَّا أُمَمٌ أَمْثَالُكُمْ مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ ثُمَّ إِلَىٰ رَبِّهِمْ يُحْشَرُونَ

Meaning: "And there are no animals on earth and birds that fly with two wings, but a people (also) like you. We have not forgotten anything in the Book, then to God, they are assembled." (Quran Surah Al-An'am verse 38).

This verse emphasizes the disappearance of species of creatures on Earth because they consider birds, animals, and plants to be goods of pleasure. The explanation of the importance of biodiversity in verse is a maqasid al-shari'ah that must be respected and maintained to obtain moral implications.

b. Hadiths about the environment

1) Hadith History Bukhari

مَا مِنْ مُسْلِمٍ يَغْرِسُ غَرْسًا، أَوْ يَزْرَعُ زَرْعًا فَيَأْكُلُ مِنْهُ طَيْرٌ أَوْ إِنْسَانٌ أَوْ بَيْهِيمَةٌ إِلَّا كَانَ لَهُ بِهِ صَدَقَةٌ

Meaning: "It is not a Muslim to plant a tree, nor does he plant a plant and then the tree or plant is eaten by birds, humans or animals but becomes a charity for him." (Hadith narrated by Bukhari).





The Hadith illustrates that what we plant and bear fruit, we indirectly maintain the diversity of living things on earth and maintain the sustainability of the ecosystem.

2) Hadith History of An-Nasa'i

مَنْ قَطَعَ بَيْدْرَةَ صَوَّبَ اللَّهُ رَأْسَهُ فِي النَّارِ.

Meaning: "Whoever cuts down a bidara tree, Allah will bury his head in the fire of hell." (Nasai narrated Hadith).

Although this Hadith explicitly mentions the bidara tree, it does not mean that it is permissible to cut down other trees as it is understood that plants, especially forests, are the lungs of the world that can balance and restrain the rate of pollution.

There are still many verses of the Qur'an and Hadith that explain the recommendations for preserving and maintaining the environment that has not been touched on in this paper. Given the many explanations of the Qur'an and Hadith, it can be an illustration that maintaining and preserving the environment is an absolute obligation (fardlu 'ain) for every human being (Dzar Nuzul & Hamzah, 2020).

3.3 TRACING THE ROOT CAUSES OF ENVIRONMENTAL DAMAGE

The law of causality still applies today; every effect must be rooted in a cause (Steward, 2022). So, it is inevitable that every human being as a caliph is required to preserve and protect the environment on earth by tracing the sources of the causes of natural and environmental damage that have occurred so far. The sources of the causes are as follows:

a. Human Greed

In fact, in the Qur'an and various other holy books, it is clear and clearly explained that natural disasters and environmental damage are the results of human actions (Wanodya, 2019). By Allah, environmental damage has long been warned in the Al-Qur'an, as in the Qur'an Surah Al-Rum verse 41, which means "Damage has appeared on land and at sea due to the actions of human hands so that as a result Allah has given them some of their deeds. them, that they may return." (Surah Al-Rum: 41).





M. Quraish Shihab in Tafsir al-Misbah explains that "the occurrence of environmental damage is the result of violations and sins committed by humans, resulting in disturbance of balance on land and at sea. On the other hand, this imbalance results in various disasters for humans. The more damage to the environment, the greater the negative impact on humans. The more and more variety of human sins, the more severe the environmental damage."

Environmental damage begins when humans enter an era called the modern era. Armed with the ability of reason and technological developments, humans can give birth to sophisticated machines that can extract natural wealth by utilizing natural resources for their daily needs. Humans who live in the modern era think that nature is something that can be used at will. The greed and covetousness that exists in humans have also exacerbated environmental damage. This greed and covetousness get a vehicle for its release. With technological advances covering all fields, natural wealth is dredged to satisfy greed without considering and thinking about the future.

b. Lack of Environmentally Friendly Education

The understanding of anthropocentrism is also another thing that does not doubt its influence on the destruction of nature (Wibawa & Natalis, 2020). The roots of anthropocentrism come from the thought of Protagoras, who stated that "man is the measure of everything." This understanding of anthropocentrism has contributed much to the destruction of nature. Some people think that this anthropocentrism is the root cause of environmental damage, which worsens day by day (Sessions, 1974).

Anthropocentrism views everything in this world as lawful and legal as long as it provides significant benefits to humans. Therefore, exploitation of nature which is carried out on a large scale for the benefit and satisfaction of humans under the pretext of development or prosperity, is justified even though it endangers and destroys the ecosystem.

From the explanation above, it can be concluded that natural disasters and damage are essentially a result of the deterioration of human mentality and morality. This mental and moral damage drives a person to do destructive actions, either directly related to the destruction of nature or indirectly.

c. Weak supervision and the power of law in Indonesia





The size of the government's role is very influential on the current environmental damage. The cause of the failure to implement government policies is the incompatibility of policies with environmental problems. In addition, it does not involve much community participation in formulating and determining policies related to the environment and does not make the community the main component of targets that must be protected.

In addition, the government's lack of top concern in finding alternative solutions to environmental damage problems is faced comprehensively by involving all relevant parties in making various policies and regulations. Often, the government takes over environmental damage problems that exist partially and are not well coordinated.

d. Exploitative Development

There are many development trends in the current phenomenon, especially in big cities. Development is always synonymous with progress. However, not all developments have a positive impact on the environment. Not a few developments sometimes damage the environment, such as developments that exploit forests to be used as building land or even for building materials. This, of course, will have a terrible impact on the environment.

We can see exploitative development in the capital city of Jakarta, where almost 90% of the catchment areas are no longer functioning. The catchment area has turned into office buildings and elite housing. If this condition is carried out continuously, it will be very vulnerable to giving birth to more serious environmental problems.

3.4 STUDYING THE CONCEPT OF FIQH AL-BI'AH IN LAW ENFORCEMENT AGAINST ECOCIDES IN INDONESIA

Various ways and efforts have been made to overcome environmental damage caused by human activities, but humans still do damage detrimental to many people. It seems necessary to have a new idea and idea that can be used as a legal istinbath for environmental destroyers or ecocides. Ecocide, which means "killing the environment" is a seemingly radical idea, but according to activists, it makes sense. This particular naming is important because it emphasizes that environmental destruction is a crime (Sörqvist & Langeborg, 2019).





There must be a punishment or sanction; the punishment carried out by ecocide perpetrators is contained in environmental law (fiqh al-bi'ah). Allah says in the Quran Surah Al-Maidah verses 32-33:

مَنْ أَجَلَ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِنْهُمْ بَعَدَ ذَلِكَ فِي الْأَرْضِ لَمُسْرِفُونَ (32) إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جُزَاؤُهُمْ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ (33)

Meaning: "Therefore We set (a law) for the Children of Israel, that: whoever kills a human being, not because that person (kills) another person, or not because of causing mischief on the earth, it is as if he had killed a human entirely. Moreover, whoever preserves the life of a human being, it is as if he has preserved the life of all humans. Verily, our Messenger has come to them with clear statements. However, then many of them transgressed on earth. Verily, the recompense for those who fight against Allah and His Messenger and cause mischief on the earth is that they are killed and crucified, have their hands and feet cut off in return, or are expelled from the land (where they live). humiliation for them in this world, and the Hereafter they will have a great torment, except those who repent (among them) before you can control (arrest) them; then know that Allah is Forgiving, Most Merciful." (Surah Al-Maidah verses 32 – 33)

As-Suyuti, in his commentary, explains the meaning of the facade in verse 32 as acts of kufr, adultery, robbing, and various similar behaviours. Thus, all destructive actions are included in the actions that are threatened in this verse; namely, sin is the same as killing all humans.

In verse 33, Maidah. Quraish Shihab interprets in the interpretation of al-Mishbah, that "exceeding the limits defined by the previous verse (verse 32) can occur in various forms, such as murder and robbery, and because killing is considered as killing everyone, it may be suspected that retaliation for they also had to do more than take his life. Therefore, this verse says: Verily, recompense is worthy of those who fight against Allah Subhanahu wa ta'ala and His Messenger, namely violating arrogantly against the provisions of the Messenger of Allah sollah alaihi wasalam, and who roams around causing mischief in the land. On the face of the earth, namely committing murder, robbery, theft by scaring the people, only they are killed mercilessly if they kill, without taking





property, or are crucified after being killed if they rob and kill to be a lesson to others as well as to reassure the general public that criminals have missing, or their right hand was cut off for seizing property without killing. Their left leg was also cut off reciprocally because it had caused fear in society, or they were expelled from the country where they lived, imprisoned so as not to frighten the people. This is if he does not rob the treasure. That is the punishment as an insult to them in this world so that, apart from those who are evil, they will be prevented from doing the same thing, but that is not the only punishment they will receive in the hereafter if they do not repent, they will have a great punishment.”

Based on these verses of the Qur'an, environmental law was born. This environmental law is a rule that underlies the implementation of protection, management and enhancement of environmental resilience. In addition, it is also defined that environmental law is the entire regulation that regulates human actions regarding what should be done to the environment. These regulations can be enforced with sanctions by competent authorities (Abdelzaher et al., 2019).

Classical Environmental Law or user-oriented law establishes norms to ensure the use and exploitation of environmental resources with various human minds and intelligence to achieve maximum results quickly. It was also stated that there is an incorrect opinion which states that law enforcement is only through a process in court. Besides, it seems as if law enforcement is the absolute responsibility of law enforcement officers. At the same time, law enforcement is an absolute obligation of all levels of community members (Najicha, 2021).

According to Nottie Handhaving Milieurecht, environmental law enforcement is "supervision and application or threats, the use of administrative, criminal or civil instruments to achieve the arrangement of legal provisions and regulations that are generally and individually applicable. Supervision (control) means government supervision to comply with the provision of regulations that are parallel to criminal law investigations” (Herlina, 2017).

Efforts to deal with the problem of ecocide crime in Indonesia are essentially based on two ways: First, a penal policy based on criminal law (the Criminal Code) and legislation on environmental crimes (Prakasa, 2021). The first method is repressive, namely actions taken to deal with an already occurred action. The handling is carried out by giving severe





criminal sanctions to the perpetrators of ecocides to cause fear and a deterrent effect. Second, it is carried out in a non-penal manner that is more preventive. These preventive actions lead to actions whose results will be much more effective in minimizing the opportunities for environmental problems to occur.

Legal action given to perpetrators of environmental pollution and destruction consists of several aspects, namely administrative aspects, civil aspects and criminal aspects (Syarhan et al., 2021). Article 76 paragraph (2) of Law Number 32 of 2009 concerning Environmental Protection and Management explains that "administrative sanctions consist of written warnings, government coercion, freezing of environmental permits and revocation of environmental permits" (Tegnan et al., 2021). As for the settlement of environmental disputes by Article 84 of Law Number 32 of 2009, "to claim compensation and or costs for environmental restoration, there are two ways: settlement of environmental disputes outside the court and settlement of environmental disputes. Through the courts" (Pandiangan et al., 2021).

If an environmental crime is committed on behalf of a business entity or company by Article 116 paragraphs (1) and (2) of Law Number 32 of 2009, then "criminal charges and criminal sanctions are imposed on the business entity or person who gave the order to commit the crime or the person who acts as the leader of the activity in the crime." Criminal threats, as stated in the articles, are imprisonment and fines. In addition, there are "additional criminal or disciplinary actions against business entities", which are contained in Article 119 of Law Number 32 of 2009 (Naibaho & Purba, 2021).

The provision of sanctions given to perpetrators of this ecocide is one proof that the purpose of punishment in the law refers to the guidance of the Qur'an, not just revenge but more in the form of education. The Quran Surah Al-Maidah verses 32-33 above is used as the basis by several scholars to abort various legal sanctions from Allah if the perpetrator truly repents.

In the Nahdlatul Ulama fatwa at the 29th Nahdlatul Ulama Congress in Cipasung Tasikmalaya in 1994, it also stated that "the law on polluting the environment, both air, water, and soil and the balance of the ecosystem if it is dangerous is haram and includes a criminal act (jinayat)." By referring to the Koran Surah Al-Maidah verses 32-33 earlier,





presumably, it can be used as a basis for punishment for perpetrators of ecocide who are stubborn and are never deterred by the existing punishment (Mufid, 2020).

4 CONCLUSION

Fiqh al-bi'ah contains content to realize the benefit and prevent harm. Environmental Jurisprudence views the relationship between humans and the natural environment as an inseparable unit. Humans created from the elements in the universe are proof that humans are an inseparable part of nature. Every human being, as a caliph, is certainly required to preserve and protect the environment on earth by tracing the sources of the causes of natural and environmental damage that occur. The sources of the causes are human greed, lack of environmentally sound education, weak supervision and legal power in Indonesia, and exploitative development.

Based on the Quran, Surah Al-Maidah verses 32-33, and Law Number 32 of 2009, the punishment for ecocide perpetrators can be in the form of criminal and civil. In the Nahdlatul Ulama fatwa at the 29th Nahdlatul Ulama Congress in Cipasung Tasikmalaya in 1994, it was stated that "the law on polluting the environment, both air, water, and soil and the balance of the ecosystem if it is dangerous is haram and includes a criminal act (jinayat)." In principle, the enforcement of criminal penalties for ecocide perpetrators is based on two ways, namely: 1) repressive punishment and 2) preventive non-penal. By referring to the Quran Surah Al-Maidah verses 32-33 and Law Number 32 of 2009, presumably, it can be used as a reference for punishment for recalcitrant ecocide perpetrators who are never deterred by the existing punishment.

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