

Research Article

Islamic Views on Main Debated-Forest Policies under New Order Government in Indonesia¹

Agung Wibowo

Chair of Forest and Nature Conservation Policy, Georg-August-Universität Göttingen, Germany

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Correspondence**Agung Wibowo**

Chair of Forest and Nature Conservation Policy, Georg-August-Universität Göttingen, Germany

Tel: +49(0)551-39 13391

Mobile: 0176 7975 3530

Email: agung.wibowo@stud.uni-gottingen.de

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Forestry sector provided an enormous impact for Indonesian economy in the period 1966-1998 of New Order era. On the other hand, massive timber extractions have increased the rate of deforestation and land degradation, and lead to many adverse effects such as land conflicts between indigenous people and forest companies, the collapse of forest industries due to the lack of raw materials, unpaid companies' debt and continuously environmental disasters. Many forest-related policies under New Order government generated debates among academics, practitioners, politicians and bureaucrats. The author then examines these policies using sharia principles of natural resource management conducted by the companions of the Prophet Muhammad. The objective of this study is to find out the policies which are unfit with Islamic rules. As the result, there are five main policies on forests contrary to the Islamic rules, namely: unclear of land ownership, unsustainable rate of forest harvesting, obscurity of raw material source for private companies, injustice distribution of benefits from forests, and log export ban. These failures then lead to many damages called *fasad* on forest and people. To overcome the problems the author proposes three basic of sharia rules on forest management as solution. First, all forestlands throughout the country, except private forest and state forest, have to be managed by the state on behalf of the citizens. The government then allocates the land in appropriate uses such as conservation forest, protected forest and production forest based on scientific assessment and state policy. Second, only production forests could be distributed to selected citizens (farmers) for their own livelihoods as well as to the state-owned enterprises for state income generating. Third, the earns from forest management have to be returned to the people as public services such as free education and health services, cheap public transportation and public security. Through this ways of management all of citizens will get benefit from forest resource.

1. INTRODUCTION

New Order government led by Soeharto took power from Soekarno in stagnant and shambles economic conditions, e.g. very high inflation (229%), deficit in state budget, looming external debt, deep moral crisis as well as corrupt and dissolute leaders (Pauker, 1967; Rock, 2003). Policy makers argued that logs export could be one of the quickest ways to bring investment and increasing national income (Barr, 2006). With 143.7 million hectares of tropical forest or about 76% of land area, the government expected to sustain national development as well to open up the Sumatra and Kalimantan from isolation. According to Kartodihardjo (2006), the rationales of this policy were to accelerate economic stabilization and gaining international recognition through foreign aid.

The government then issued a series of laws to implement the policy, i.e. the Foreign Investment Law of 1967, which liberalized requirements on foreign investment, the Basic Forestry Law of 1967, which gave full authority to the state to control all forests over the country, and government regulation on forest concessionaires called PP 21/1970 as a basis for massive logging activities by private companies. In the period 1971-1980, Ministry of Forestry allocated 43 million hectares area to 438

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forest concession holders. Within this era, most of companies merely cut down forest and exported logs to international market without any processing to increase their value. As a result, in 1979 Indonesia became the largest exporter of tropical logs when it shared approximately 44% of world hardwood log export, and the real volume was still possibly greater than official figures (Barr, 2006).

The 1970 Government Regulation actually also obliged concessionaires to develop wood processing industry. However, it ran slowly because the companies prefer to take profit immediately from logs export rather than build industry with huge investments and more risky. In 1981 the policymakers stipulated concessionaires to build a plywood-cored industry and restricted for log export. As consequence, small and medium scale companies had to be merged or sold to bigger companies or went out of business. These policies then made wood-based industries concentrated to a number of companies, formed horizontal integration among logging companies and vertical integration between logging and plywood industries, and placed Indonesian forests and wood industries in hands of a few people. Given low production cost Indonesian plywood invaded the world market and changed its market share from just 3.2% in 1980 to 70% in 1988, and by 1993 Indonesian plywood controlled about 90% of the whole trade of tropical plywood (Hasan, 1994 in Ngadiono, 2004).

Without a doubt, forestry sector in period 1967-1997 or New Order era contributed positively to the national development as the largest source of non-oil earnings, pioneer of industrial development, source of employment and the driver of regional development. However, many adverse effects felt in the next era were also indisputable and has raised debate among academics, practitioners, politicians and bureaucrats. In political studies, these policies could be accepted since they have bounced Indonesian position to be developing country successfully. Meanwhile, in the view of economics and ecological studies, these policies have not been fully accepted yet since they did not pay attention to environmental sustainability and ignored the right of people in and around forest. The author then use Islamic rules to assess these policies based on the conviction that Islamic rules will give prosperity to whole people and nature at present and the future.

2. METHODS

Islamic rules or sharia actually rules how natural resources, including forests have to be managed to reach public prosperity and balancing economic, ecological and social aspects. These rules are scattered in many fiqh books written by Muslim scholars in the past and this century. One can declare an opinion as Islamic view/argument if it is built using valid methodology (ushul fiqh) and based on the sources of Islamic rules (dalil), viz. Holy Quran, Sunnah of the Prophet Muhammad, consensus (ijma') of the companions (sahabah) of the Prophet Muhammad, and Islamic analogy or qiyas (Abdullah, 2002; Hilal, 2004; Ismail, 2011). Technique to obtain hukm sharii (Islamic rules) through ijthad and comparing established thought of certain case to other similar case (Figure 1) are legally accepted and is acknowledged by Islamic scholars (An-Nabahani, 2002; Al-Qaradawi, 2002). In giving assessment on forest governance in Indonesia, the author adopts Islamic legal opinion from five main literatures, namely: Zalloom (1999), Al-Maliki (2001), An-Nabhani (1997), Muhammad et al. (2006) and HTD (2009). These books contain basics of Islamic rules on environmental issues. In this study, the author examines selected policies on Indonesian forest governance under New Order government as briefly mentioned in the first section and wider deliberations circulated amongst forest scientists. It is worth noting that there is possibility to find out more than one conclusion in one case since the Islamic scholars have different ways in build their fiqh. However, the author picks out and presents the most valid argument according his view.

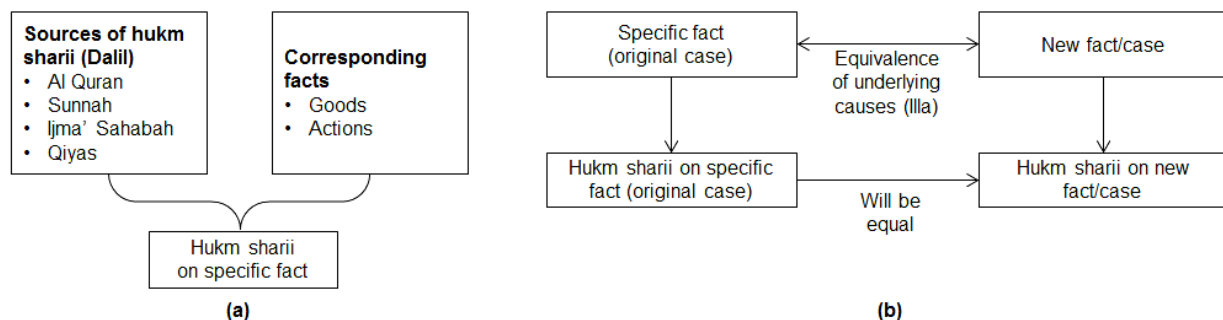


Figure 1 (a) Generating hukm sharii in Islamic way (b) Qiyas (Islamic analogy).

3. RESULTS AND DISCUSSIONS

By scrutinizing the facts of forest-related policies within New Order era and Islamic rules corresponded to these facts, the author finds five main policies contrary with Islamic rules, namely: unclear of land ownership boundaries, unsustainable rate of forest harvesting, obscurity of raw material source for private companies, injustice distribution of benefits from forests and logs export ban. Followings are explanation of each case.

3.1. Unclear of land ownership boundaries

Land ownership is the main point which should be clear before someone take an action on the land such as planting, fencing, making building on it, or moving its ownership to other people. Islam forbids any land utilization without permission from the owner. Hence, the ownership concept is very critical. According to Al Maliki (2001), ownership is permission from the Al Mighty to utilize something. In Islamic rule, a person may acquire land (including forestland) through six ways, namely inheritance, grants, buying, fencing (tahjiir), cultivating barren land (ihyaul mawat), and free gift from state (iqta'). Someone who gets a piece of land through one of these ways may to utilize it for all purposes she/he wants in any legal (halal) way, indeed.

Related to land law, An-Nabhani (1997) mentioned a quote of the Messenger of Allah, "Whoever cultivated a dead land, it becomes his." He also said, "Whoever encircled a land by a fence it becomes his." Dead land means nobody's land or land without

ownership. Whoever managing dead land before anyone else (even the government) is the real of owner such land. Moreover it has been done for tens or hundreds of years. In modern era, of course, anybody who wants to fence a piece of land has to ask the nearest or local government to ensure and clarify its ownership prior to take any treatments. Many land conflicts between people in and around forests with forest concessionaires were caused by unclear land ownership boundaries since the state did not recognize fencing as the way to having land forest. People who stay in and around forests have been using the forest as a source of livelihood such as food, medicine and home for hundred years, even before the state was declared. Unfortunately, they are not surely listed as the citizens. When the state gave their land to the forest concessionaires, the conflict could not be avoided. Based on this hadith, the author concludes that unclear of land ownership becomes one of the main causes of land conflict. Land ownership issue in Islamic law is in line with the concept which called by modern scholars as land tenure or property right.

On the other hand, the Messenger of Allah said: "Muslims are partners in three (things): Water, pasture and fire." Zalloom (1999) used this hadith as a basis to argue that every Muslim has equal right to utilize public forests. Furthermore, he said that pasture in hadith above including public forest. This argument implies that all forests over the country, except state and private forests, are belong to the public and the government as public asset administrator should not move its ownership to private sector. According to Zalloom's argument, Indonesian government's policy of giving forestland to private sector was contrary to Islamic rules.

3.2. Unsustainable rate of forest harvesting

The harvesting practices which exceeding sustainable rate were actually identified for a long time (Kartawinata et al., 2001; Ministry of Forestry, 2007). Uncertainty in business atmosphere and bureaucracy made private enterprises with forest concession work quicker and finished their jobs before the time. Their worries are concerning on the possibility to get permit extension to keep their business going well in the second round. Accumulation of these anxieties leads them to cut down forest in unsustainable rate, either with diameter more than 50 cm or less. Furthermore, they did post-extraction in secondary forests before 35 years of first logging. This logging practice promotes uncontrollable deforestation and land degradation. The government then revoked the company's permits leading to decrease the number of permits from 538 concessions in 1987 to 437 and 292 in 1998 and 2011 respectively (Ministry of Forestry, 2012). Nevertheless, forest damages could not be restored in a short time.

Basically, all the things endangering public is forbidden in Islam. The prophet Muhammad said, "you do not harm each other" (Muhammad et al., 2006). Scientific studies show there is strong relation between forest damages and ecological disasters such as floods and drought (Abramovitz, 2001). Since all the things leading to mass destruction is prohibited, then forest harvesting in unsustainable rate is forbidden. Private sector is a main actor conducting those bad logging practices in public-owned forests. Therefore, the government's policy to distribute public forests to private sector as indirect factor to forest damages is contrary to Islamic law. In addition, government's inability to control bad logging practices conducted by loggers contributes to make it even getting worse.

3.3. Obscurity of raw material source for private companies

One problem faced by wood industries in Indonesia is unavailability of raw material (Ministry of Forestry, 2007). Despite there are several logs resources, i.e. natural forests, industrial forest plantations, other legal permits, and conversion areas; however it was insufficient to meet the industries' need. Until mid-1990's, Indonesian wood industries used approximately 80% wood from natural forest since forest estate development had just began in 1995 (Ministry of Forestry, 2007). In the meantime, concentration of Indonesian wood industry shifted to pulp and paper, which is known as a greedy industry. Consequently, pressure on natural forest is getting heavier.

It is not the case if private industries had certain source of raw materials. Figure 2 shows how wood industries in Islamic system fulfill their raw material needs. Private logging companies and private advanced wood industries only process wood from their forests. It means that they should own the forest, which can be bought (wood) from state forest. Since buying forests requires large capital, then only large companies that are really interested in forestry business can do it. Consequently, they have to manage their forest in sustainable way to keep their mills run in optimum capacity. They can also obtain logs from other private logging companies or from state forests.

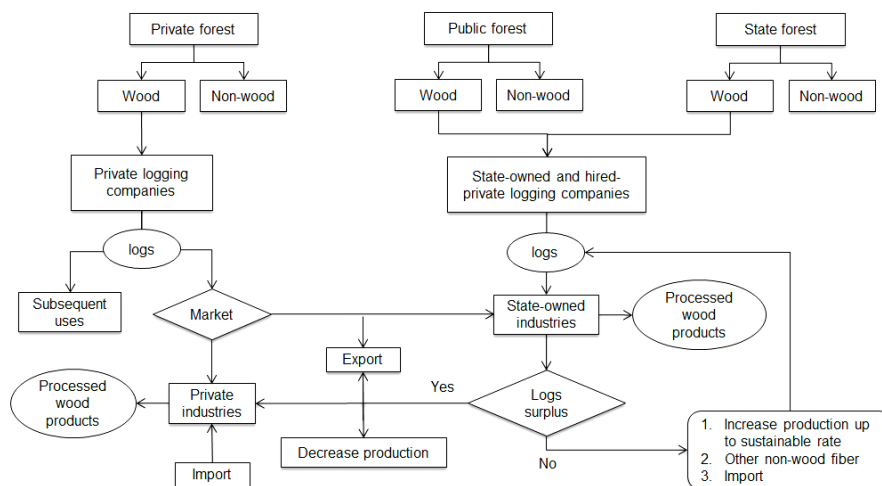


Figure 2. Wood circulations within wood-based industry based on Islamic system.

Further, woods from public and state forests are aggregated as total state mills and prioritized for supplying domestic demand prior to be sold to private industries or to be exported. In case of an increase of normal demand, the government is allowed to lift logs production up to reasonable quantity as long as remain in sustainable rate. This explanation has reiterated that in Islamic system, the risk of forest destruction caused by private sector is almost impossible since they have no opportunity to do so.

3.4. Injustice distribution of benefits from forest

Forestry companies have benefited the most from forestry policies as they procured logs and processed them into wood products with low production cost. These comparative advantages made Indonesian wood industries as the major player in the world wood market. According to Walhi (1993) in Darusman (2002), only 17% of revenue from forest went to the state, while the remaining 83% went to logging companies, under assumption that the logs were sold in international market. However, in fact, these logs never sold in international market due to log export ban policy, but completely supplied to their own industries with low price, even for free.

This system of benefit distribution from forest is totally different with Islamic system as shown in Figure 3. Woods from public and state forests are aggregated as states mills and then be processed into wooden goods in order to meet domestic demands. The government as producer determines competitive pricing policy and returns the profit to public as public expenditure. Both make the public as a profit center. In case there is surplus production, the excess woods will be exported and the profits are returned to the public.

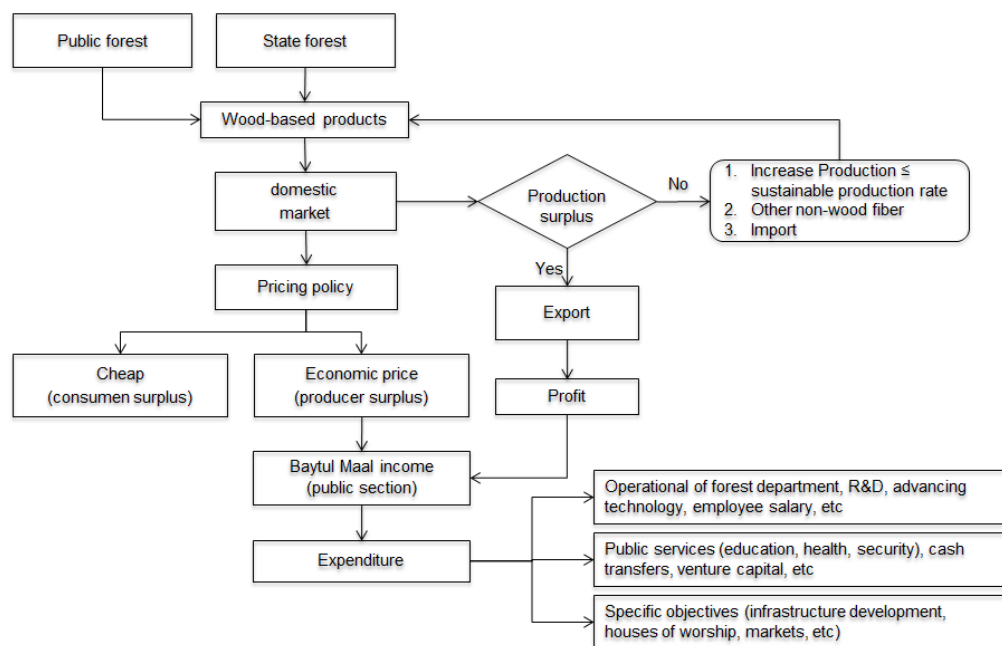


Figure 3. Benefit distribution from forest based on Islamic system.

Imam as a state leader has right to decide procedures of benefit distribution based on his ijthad. Nonetheless, every citizen without exception, shall enjoy this treasure. According to Zalloom (1999:71-73), some forms of benefit distribution may be chosen by Imam are:

1. Spend on the matters related to forest management, i.e.:
 - Operational facilities such as Forestry Department office, information and administration system, vehicles service, etc.
 - Salary for employees
 - Research and Development, advancing technologies
 - Improving plywood mills, pulp and paper mills, etc.
2. Direct distribution to the people:
 - Spent on public facilities such as health services, places of worship, markets, free education, etc.
 - Cash transfer to the people who need it, e.g. victims of natural disasters
 - Capital assistance to junior entrepreneurs
3. Specific expenditures such as military vehicles, providing clean water and electricity, care for orphans and elder, etc.

3.5. Logs export ban

The government's policy to prohibit log export in 1985 made Indonesian wood market was filled with cheap logs as well as decreasing plywood production cost. However, it was not truly market as there were not any real logs buyers. In the next period, several studies (Manurung, 1995; Ministry of Forestry, 2007) proved that the policy was contrary to the economic law and simultaneously reduced Indonesia and world prosperity.

In Islamic views, every trader may export and import any commodities as long as it does not detriment public interest. The author derives this argument from Prophet Muhammad, "and I wish I will meet Allah and nobody demands (complains) of me for unjust act I did against him, neither in blood or property." In other hadith, once a man came and said, "O Messenger of Allah, fix

prices.” He replied: “Rather Allah reduces and increases.” An-Nabhani (1997) used this hadith to argue that price fixing policy is prohibited and is an injustice act. He then, said that every citizen has right to rise a complain to the Court (Mahkamah Al-Madhalim) against the ruler who fixing the price, even if he is a governor or khalifah (also see HTD (2009) for detail on this topic). Price fixing policy in this context means make unfair trade. Figure 4 shows how Islamic system rules wood circulation within the country. Export is an option when there are excessive logs in domestic market, besides reducing log production. Oversupply of logs would not happened since the government recognizes wood domestic demand and controls state wood industry, whereas private sector has its own forest. In case the government intends to expand domestic wood industry, they can assist entrepreneurs in fair and more meaningful ways such as giving financial and technical assistance. Providing logs from public forests for private sector, especially with large amount and exceeds a sustainable rate, is contrary to Islamic law, then will lead to injustice economic.

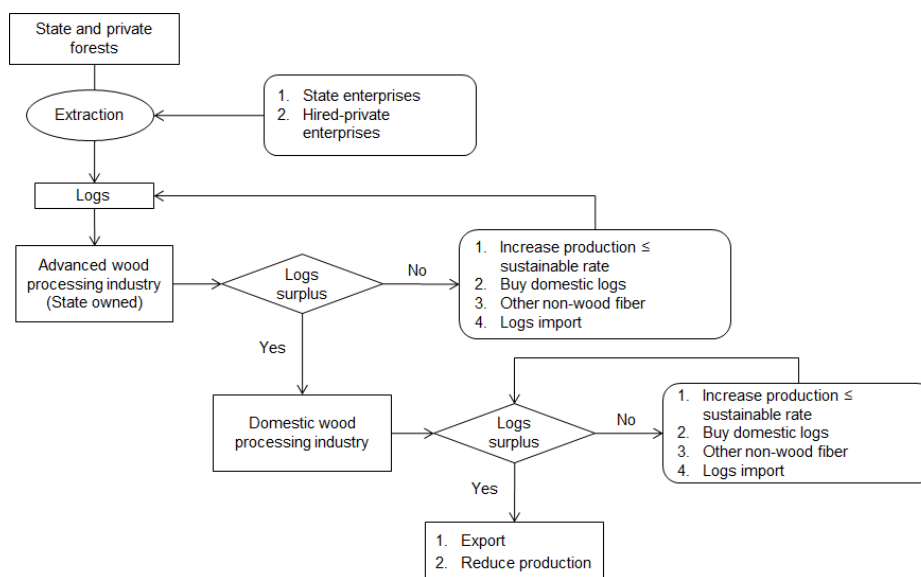


Figure 4. Wood circulation in domestic market based on Islamic system.

4. CONCLUSION

This reflective study has found five forest-related policies under New Order government in Indonesia that are contrary to Islamic rules, viz. unclear of land ownership boundaries, unsustainable rate of forest harvesting, obscurity of raw material source for private companies, injustice distribution of benefits from forests and logs export ban. These policies seemed nice and favorable at the beginning: generating state income, alleviating poverty and supporting downstream industries. Yet, it has leaving unresolved problems to date. Many disasters and catastrophes such as floods, injustice in natural resource allocation, poverty, social conflicts between forest companies with people in and around forests, and food shortage crises are ironic for country with enormous size of fertile land and millions of unemployed. Failures in forest governance as mentioned above should be a signal to strive a fundamental change. The author suggests to take into account Islamic principles as exposed above to be positive laws in order to overcome numerous problems in Indonesian forest governance. Islamic law is derived as a blessing for the whole universe. Based on this belief, the implementation of Islamic law will lead to prosperity in the world and will lead to happiness in the hereafter. In contrast, leaving Islamic law will lead to suffering in the world and in the hereafter counting into the losers.

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