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

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Abstract

Forestry sector has provided an enormous impact for Indonesian economy in the period 1966-1998 of New Order era. Indonesia became the major exporter of tropical wood just around ten years after the government opened forests for foreign and domestic investments. In the next ten years, the priority of forest product export was changed, and Indonesia turned into the largest plywood exporter where its share was approximately 70 and 90 percent to the world market in 1988 and 1993 respectively. Forestry sector has contributed significantly to state development as source of employment, driver for downstream industries and regional economy, and source of state revenue. At the time, ten major forest industry groups occupied more than 27 million hectares of forestland throughout the country. 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 actually have generated debates among academics, practitioners, politicians and bureaucrats. The author then examines these policies using sharia law and principles of natural resource management conducted by the companions of the Prophet Muhamamad. The objective of this study is to find out the policies which unfit with Islamic law, so not to be done in the future. As the result, there are seven main policies on forests contrary to the Islamic law, namely: unclear of land ownership boundaries, state owned-forestland allocation to private companies, unsustainable rate of forest harvesting, obscurity of raw material source for private companies, injustice distribution of benefits from forests, log export ban, and decentralization of forest management. These failures then lead to many damages called *fasad* on forest and people. To overcome the problems the author proposes three basic of sharia laws on forest management as solution. Firstly, 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. Secondly, only production forest could be distributed to selected citizens (farmers) for their own livelihoods as well as to the state-owned enterprises for state income generating. Thirdly, the earns from forest management must be returned to the people as public services such as free education and health services, cheap public transportation and public security. In this way of management all of citizens will get benefit from forest resource.

Keywords

Forest policies, New Order era, Indonesia, Islamic law

Introduction

New Order government led by Soeharto took power from Soekarno in stagnan and shambles economic condition. At the time, inflation was very high (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 logs export could be one of the quickest way 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 expects to sustain national development as well to open up the Sumatra and Kalimantan from isolation. According to Kartodihardjo (2006), the rationale 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, namely 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 which became the basis for massive logging activities by private companies. In the period 1971-1980, Ministry of Forestry who manages 143 million hectares of forestland has allocated area of 43 million hectares to 438 forest concession holders. Within this era, most of companies only cutted down forest and export logs to international market without any processing to increase its value before. As a result, in 1979 Indonesia became the largest exporter of tropical logs when it's sharing approximately 44 per cent of world hardwood log export, and the real volume was still possibly greater than official figures (Barr 2006).

The government regulation of 1970 actually has also required concessionaires to develop wood processing industry. However, it ran slowly because the companies prefer to take profit immediately from logs export rather than to build industry with huge investments and more risky. In 1981 the policymakers stipulated concessionaires to build wood industries with plywood as the core and restricted log export. As consequence, small and medium scale companies had to be merged, sold to bigger company 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 finally caused Indonesian forest and its industries in the hand of a few people. With low production cost Indonesian plywood invaded the world market, and its market share increased sharply 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 the period 1967-1997 or New Order era has contributed positively to the national development as the largest source of non-oil foreign exchange earnings, pioneer of industrial development, source of employment and the driver of regional development. However, many adverse effects felt in the next era are also indisputable and has raised debate among academics, practitioners, politicians and bureaucrats. In political studies, these policies could be accepted since it has bounced Indonesian position to developing country successfully. Meanwhile, in the view of economics and ecological studies, these policies have not fully accepted yet since it did not pay attention to environmental sustainability and ignores the right of people in and around forest. The author then use islamic law to assess these policies based on the conviction that Islamic law will give prosperity to whole people and nature at present and in the future.

Method

Islamic law or sharia actually rules how natural resource, including forest have to be managed to reach public prosperity and balancing economic, ecological and social aspects. These laws are scattered in many fiqh books written by moslem scholars in the past and this century. One can declare an opinion as Islamic law if it is built using valid methodology, and based on the main sources of Islamic law, namely Holy Quran, Sunnah of the Prophet Muhammad, consensus (*ijma'*) of the companions of the Prophet Muhammad, and Islamic analogy (*qiyas*). In this article, the author try to find out Islamic law which fit with facts of Indonesian forest management under New Order government as mentioned above, and present them in the next section. 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 only choose and present the most valid argument according his view.

Result and Discussion

By scrutinize the facts of forest-related policies within New Order era and Islamic law correspond to these facts, the author find seven main policies contrary with Islamic law, namely: unclear of land ownership boundaries, state owned-forestland allocation to private companies, unsustainable rate of forest harvesting, obscurity of raw material source for private companies, injustice distribution of benefits from forests, logs export ban, and decentralization of forest management.

Unclear of land ownership

Land ownership is the main point 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 law, a person may acquire land (including forestland) through six ways, namely inheritance, grants, buying, fencing (*tahjiir*), cultivating barren land (*ihyaul mawat*), and the free gift from state (*iqta'*). Someone who get a piece of land through one of these ways is legal to utilize it in all kinds he/she wants.

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.*"

Many land conflicts between people in and around forest with forest concessionaires were caused by unclear land ownership boundaries since the state did not recognise fencing as the way to having landforest. People who stay in and around forest 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 did not listed as the citizens. When the state gave their land to the forest concessionaires, the the the conflict could not be avoided. Based on this hadith, the author conclude 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.’ Zallom (1999) uses this hadith as a basis to say that every muslim has equal right to utilize public forest. Furthermore, he said that pasture in hadith above including public forest. This argument imply that all forest over the country, except state and private forests, are belong to the public, and the government as public asset administrator could not move its ownership to private sector. According to Zallom’s argument, Indonesian government policy to gave forestland to private sector was contrary to Islamic law.

Unsustainable rate of forest harvesting

Harvesting practice exceeding sustainable rate was actually observed by many researchers, i.e Kartawinata *et al.* (2001). Uncertainty in business atmosphere and bureaucracy made private enterprises who got forest concession work quicker and finished their jobs before the time. They also worried fails in getting permission to keep their business going well in the second round. Accumulation of these anxieties lead them to cutted down all trees, either with diameter more than 50 cm or less. Furthermore, they did post-extraction in secondary forests before 35 years after first logging. This logging practice made deforestation and land degradation occur in an uncontrolled. The government then revoked the company's license, and their number decreased 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 harming public is forbidden in Islam. The prophet Muhammad said, „*you do not harm each other.*“ Scientific studies show there are strong relation between forest damages and ecological disasters such as floods and drought. Since all the things led to mass destruction is prohibited, then forest harvesting in unsustainable rate is also forbidden. It should be remembered that bad logging practices were derived from public-owned forests allocation to who are not eligible, namely private sector. Therefore, the government's policy to distribute 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 also contribute to make it even worse.

Obscurity of raw material source for private companies

One problem facing wood industries in Indonesia is raw material availability. Although there are some logs resources, namely natural forests, industrial forest plantation, other legal permits, and conversion areas; their contributions are not equal. Until mid 1990’s Indonesian wood industries used approximately 80 per cent wood from natural forest since forest estate development had just began in 1995 (Ministry of Forestry 2007). In the meantime, the focus of wood industry shift to pulp and paper which both are intensive raw materials. Consequently, pressure on natural forest getting heavy.

This problem would not arise if every private industry has had certain source of raw materials. Figure 1 shows how wood industry in Islamic system finds its raw material. Private logging company and private advanced wood industry only process wood from the forest belongs to them. It means that they should have their own forest, which can be bought from state forest. Since buying forests require large capital, then this could only be done by large company who really interested in forestry business. Consequently they have to manage their forest in sustainable way to keep their mills run in optimum capacity. They can also obtain logs from another private logging companies or timber from state forests under agreement trading contacts.

On the other hand, woods from public and state forests supply state mills in order to meet domestic demand prior to be sold to private industries or to be exported. In term of demand increases beyond a normal amount, the government is allowed to lift logs production up to reasonable quantity, but remained below sustainable rate. This explanation has reiterated that in the Islamic system it is almost impossible private sector causing forest destruction since they have no opportunity to do so.

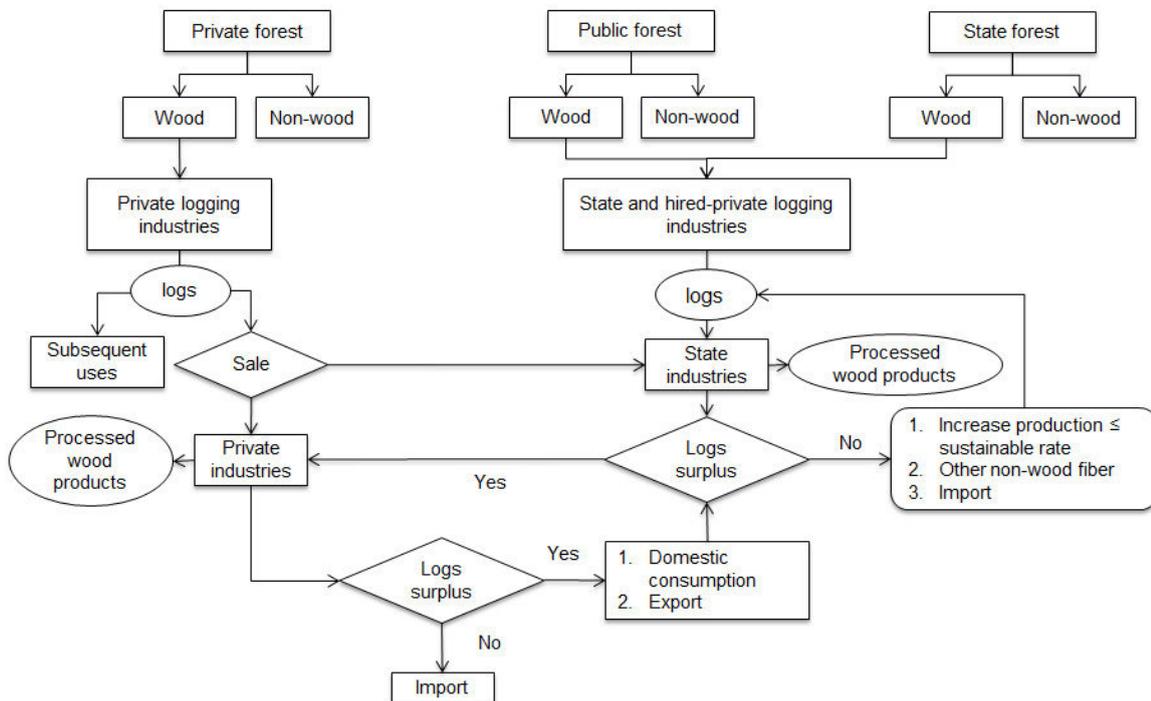


Figure 1. Wood circulations within wood-based industry.

Injustice distribution of benefits from forest

Forestry companies are the group who catch the most benefit from forestry policies as they procure logs and processing it into wood products with low cost production. This comparative advantages take Indonesia wood industries as the major player in the world wood market. According to a report published by Walhi in 1993, only 17 per cent of revenue from forest went to the state, while the remaining 83 per cent went to logging companies pockets (Darusman 2002). Walhi has calculated logging companies earnings with assumption if the logs were sold in international market. However, in fact, these logs never sold in international market, 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 2. Woods from public and state forest go into states mills to be processed into wooden goods

in order to fulfill domestic demands. The government as producer could determine pricing policy, whether to sell cheaply to public or sell with economic price and returning profit to public as public expenditure. Both make the people as a profit center. In case there is excess production, it will be exported and the profits are returned to the people.

Imam as state leader has right to decide procedures of benefit distribution based on his ijtihad. Nonetheless, every citizens without exception shall benefit this wealth. According to Zalloom (1999), some forms of distribution may be chosen by Imam are:

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

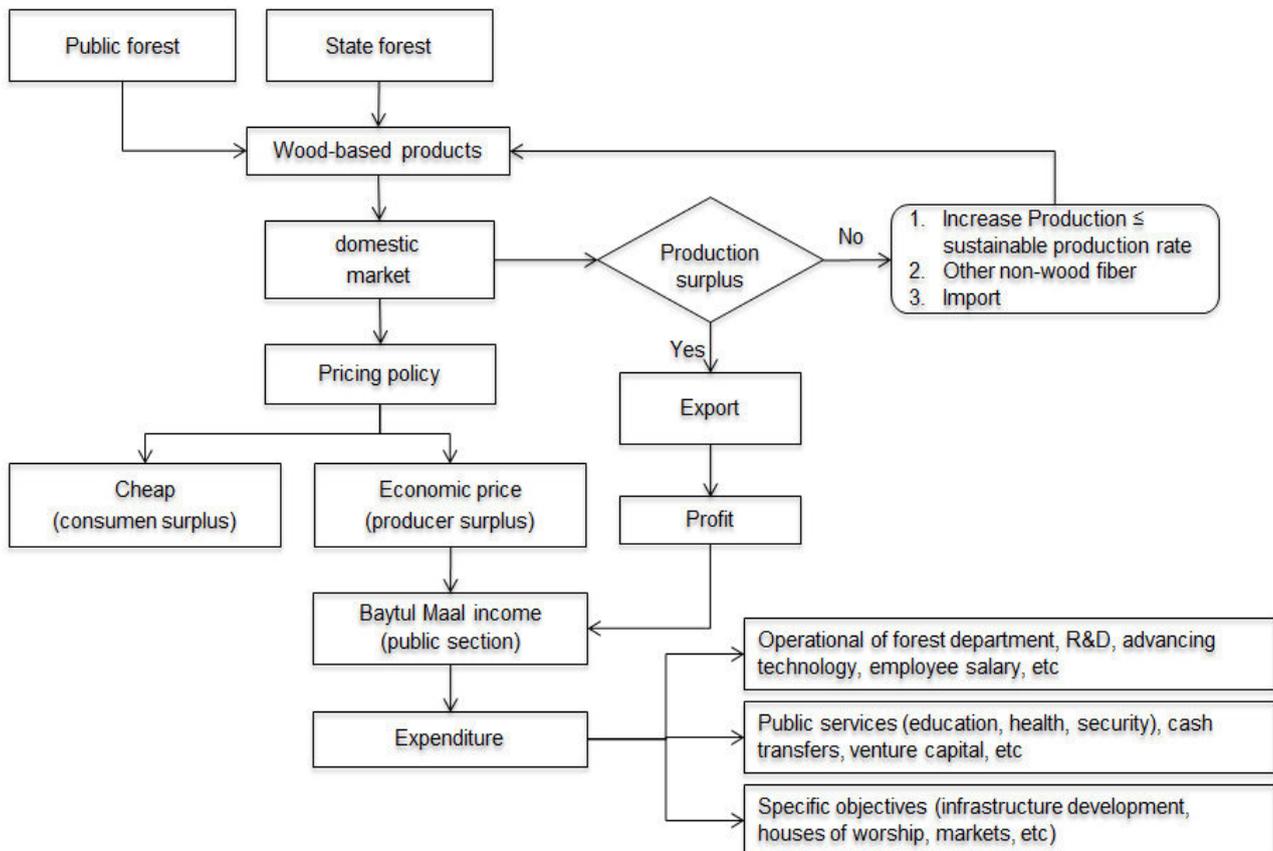


Figure 2. Benefit distribution from forest.

Logs export ban

The government’s policy to prohibit log export in 1985 made Indonesian wood market filled with cheap logs and decreased plywood cost production. However, it was not truly market as no real logs buyers. In the next period, many researchers (i.e Manurung 1995, Ministry of Forestry 2007)

proves that the policy was contrary to the economic law and simultaneously reduced Indonesia and world prosperity.

In Islamic views, every traders could do export and import any commodities as long does not detriment of public interest. The author derive 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 said: “Rather Allah reduces and increases.” An Nabhani (1997) later on use this hadith to argue that pricing policy is prohibited and is an unjust act against which a complaint is made to the ruler to remove it. He then, said that every person of the citizens would have the right to complain to the Court of the Unjust Acts (Mahkamat Al-Madhalim) against the ruler who makes pricing, whether he was a governor (Wali) or Khalifah. Pricing policy in this context means make unfair trade. Figure 3 shows how Islamic system rules wood circulation within the country. As can be seen, export is an option can be done if there are so many logs in domestic market, beside reducing log production. Oversupply of logs will not happen if the government knows how much domestic demand, since they control their wood industry and private sector has their own forest. In case the government wants to expand domestic wood industry, they can assist entrepreneurs in fair and more meaningful ways such as financing and technical assistance. Providing logs from public forests for private sector, especially with large amount and exceed a sustainable rate, is also contrary to Islamic law, then will lead to injustice economic.

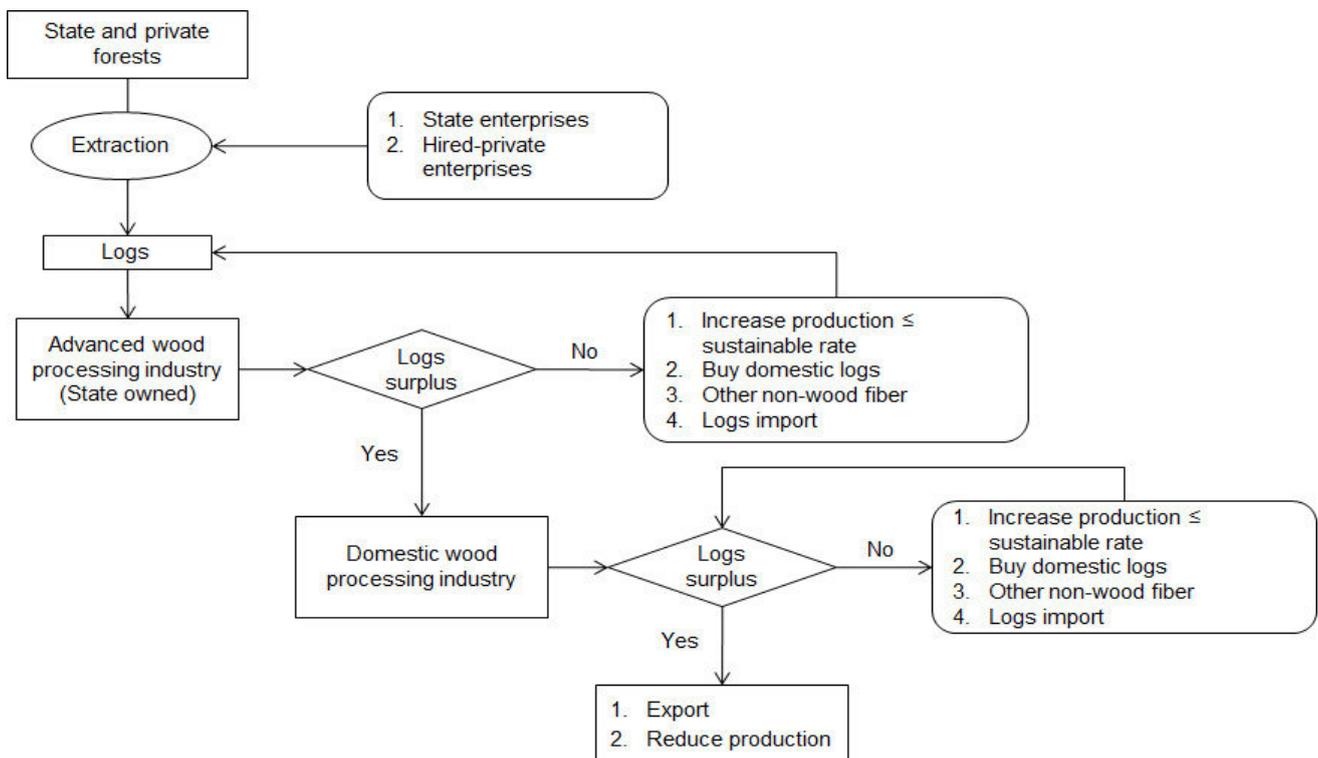


Figure 3. Wood circulations in domestic market.

Conclusion

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 Hereafter. In contrast, leaving Islamic law will lead to suffering in the world, and in the Hereafter including into the losers. 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 unemployment. Failures in forest management as mentioned above should be a signal to make fundamental changes. This reflective study suggests to take into account some islamic laws as positive law to overcome problems in Indonesian forest management.

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