



Animal Conservation Sustainability in the Perspective of Normative Law and Maqasid Sharia

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Abstract

Animal conservation aims to preserve and breed animals to achieve the benefits of a sustainable natural ecosystem. One of the efforts made by the government to provide information and knowledge to the public in an attempt to minimize wildlife hunting is through the legal protection of animals, as stated in Law Number 5 of 1990 concerning the Conservation of Biological Resources and Their Ecosystems, and Government Regulation Number 13 of 1994 concerning the Hunting of Game Animals. The research method used is juridical-normative with a legislative and socio-legal approach. Then, it linked to the policy of animal conservation examined from the Maqasid Shariah perspective. The research results provided recommendations to the government in creating legislation or decision policies oriented to animals that are not yet rare. These recommendations include educating the public about rare and non-rare animal species, setting educational targets, supporting conservation efforts, and establishing animal breeding programs. Furthermore, from the perspective of Maqasid Sharia, the conservation of these animals falls under the category of daruriyah, which means that the preservation and protection of wildlife are essential for the sustainability and keeping of the Hifz al-Mal element (natural ecosystem wealth).

Keywords: Animal Conservation, Legislation, Decision, and Maqasid Sharia

Abstrak

Konservasi satwa bertujuan untuk melestarikan dan mengembangbiakkan satwa agar dapat dimanfaatkan secara berkelanjutan demi terwujudnya manfaat ekosistem alam yang berkelanjutan. Salah satu upaya yang dilakukan pemerintah untuk memberikan informasi dan pengetahuan kepada masyarakat dalam upaya meminimalisir perburuan satwa liar adalah melalui perlindungan hukum terhadap satwa, sebagaimana tercantum dalam Undang-Undang Nomor 5 Tahun 1990 tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya, dan Peraturan Pemerintah Nomor 13 Tahun 1994 tentang Perburuan Satwa Buruan. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan sosio hukum. Kemudian dikaitkan dengan kebijakan konservasi satwa yang dikaji dari perspektif Maqasid Syariah. Hasil penelitian memberikan rekomendasi kepada pemerintah dalam membuat peraturan perundang-undangan atau kebijakan keputusan yang berorientasi pada satwa yang belum langka. Rekomendasi tersebut antara lain melakukan edukasi kepada masyarakat tentang jenis satwa langka dan tidak langka, menetapkan target edukasi, mendukung upaya konservasi, dan membuat program pengembangbiakan satwa. Selanjutnya, dari perspektif Maqasid Syariah, pelestarian satwa tersebut termasuk dalam kategori darurat, artinya pelestarian dan perlindungan satwa liar sangat penting bagi keberlanjutan dan pemeliharaan unsur Hifz al-Mal (kekayaan ekosistem alam).

Kata Kunci: Masyarakat, Keluarga, Konservasi Hewan, Perundang-undangan, dan Maqasid Syariah

Introduction

Law Number 5 of 1990, concerning the Conservation of Biological Resources and their Ecosystems, accommodates the legal protection of biodiversity. As a legal foundation, it provides legal certainty to protect endangered species. The conservation of animals is inseparable from the role of the government, as well as the participation of the community, as a crucial pillar in maintaining ecosystem balance. Within the diversity of biological resources, various species of animals reside and reproduce exclusively in specific regions not found elsewhere.

The extinction of these endemic species has caught the attention of the Indonesian government, leading to the ratification of regulations. It is an effort to protect these animals. There are two forms of animal conservation: In Situ and Ex Situ conservation. Based on data from The World Conservation Monitoring Centre, Indonesia is home to 31.1% of various species of endemic wildlife, including reptiles, mammals, amphibians, and birds.¹

In Situ conservation emphasizes the protection of animals in their natural habitats through national parks and nature reserves. The nature reserves consist of

¹ Fathi Hanif, "Upaya Perlindungan Satwa Liar Indonesia Melalui Instrumen Hukum Dan Perundang-Undangan," *Jurnal Hukum Lingkungan Indonesia* 2, no. 2 (2021), p. 30.

wildlife sanctuaries and game preserves that function as ecosystems for the life cycle of animals, the utilization of biodiversity and its ecosystems, and as conservation of wildlife diversity. Ex Situ conservation can take the form of nature parks or arboretums to conserve and maintain biodiversity.²

Biodiversity is the most crucial natural resource, with numerous benefits and functions. They as described before. Besides serving as a life cycle system, it is also an essential component of the environment, as presumed by the principle that everyone is considered to know the law (*presumption jures de jure*) implicitly present in every legal regulation issued in response to hunting activities that can lead to the depletion or even extinction of wildlife. Wildlife hunting is not solely for consumption purposes but also for cosmetics, medicine, crafts, and even purely as a hobby.

It is what has not been accommodated by the regulations issued by the government in protecting non-categorized or even endangered wildlife. Therefore, from the government's perspective, it is necessary to enact laws regarding legal protection for these animals. The management and animal conservation as part of the environment essentially involves the application of ecological principles in human activities that are related to or have an environmental dimension.³

Animal hunting is not a new phenomenon. It has existed since ancient human times because people lived as hunters and nomads. The difference is that hunting in ancient times was solely for consumption, unlike today, animals hunt for cosmetics, medicine, crafts, and hobbies. Besides hunting, the wildlife trade has become highly profitable and no longer confined to the black market but blatantly conducted through some open markets and online social media. The prices set for these activities vary. However, when wildlife becomes scarcer, the prices rise accordingly.⁴ Reflecting on the importance of wildlife conservation based on population numbers, distribution, and the risk of extinction, among others: *Extinct (EX)*; *Extinct in the wild (EW)*; *Critically Endangered (CR)*; *Vulnerable (VU)*; *Near Threatened (NT)*; *Least Concern (LC)*; *Data Deficient (DD)*; and *Not Evaluated (NE)*.⁵

² Fathi Hanif, "Upaya Perlindungan Satwa Liar Indonesia Melalui Instrumen Hukum Dan Perundang-Undangan," *Jurnal Hukum Lingkungan Indonesia* 2, no. 2 (2015), p. 29–48.

³ Asriyana Labiro, "Analisis Hukum Perburuan Satwa Langka Maleo Senkawor Sebagai Endemik Di Daerah Luwuk Banggai," *Tadulako Master Law Journal* 6, no. 2 (2022), p. 206.

⁴ Krismanko Padang, "Penguatan Kebijakan Pencegahan Perdagangan Dan Peredaran Satwa Liar Di Indonesia Berbasis Daring" (FISIPOL UI, 2022).

⁵ Yoshua Aristides, Agus Purnomo, and Adji Samekto, "Analisis Rantai Distribusi Komoditas Ikan Bandeng," *Diponegoro Law Journal* 5, no. 4 (2016), p. 1–17.

Table 1. Level of Vulnerability animal

Name of Animal	Level of Vulnerability
Orangutan/ Pongo pygmaeus	CR
Sumatera Tiger/ Panthera Tigris Sumtrae	CR
Sumatera Rhinoceros/ Dicerorhinus Sumatrensis	CR
Elephant/ Elephas Maximus	CR
Bekantan/ Proboscis Monkey	CR
Owa Kelawat/ Symphalangus Syndactylus	EN
Tarsier/ Krabuku Inkat	EN
Kukang/ Slow Loris	EN
Beruk/ Macque/ Macaca	EN
Red Langur/ Presbytis Rubicunda	VU
Gray Langur/ Presbytis Cristata	NT
Clouded Leopard/ Panthera Pardus	EN
Otter Civet/ Cynogale Bennettii	EN
Golden Cat/ Catopuma Temminckii	EN
Sun Bear/ Helarctos Malayanus	VU
Binturong/ Bearcat/ Arctictis Binturong	VU
Leopard Cat/ Prionailurus bengalensis	NT
Helmeted Hornbill/ Rhinoplax Vigil	CR
Black-Throated Hornbill/ Rhinoplax Coronatus	EN
White-Bellied Sea Eagle/ Haliaeetus Leucogaster	EN
Rhinoceros Hornbill/ Aceros Undulatus	VU
Peacock/ Pteronura brasiliensis	VU
Black-Crowned Night Heron/ Nycticorax Nycticorax	VU
Mahakam River Dolphin/ Orcaella Brevirostris	VU
Bottlenose Dolphin/ Tursiops Truncatus	NT
Sambar Deer/ Rusa Unicolor	VU
Pangolin/ Manis Javanica	CR
Blue-Crowned Hanging Parrot/ Loriculus Galgulus	VU
Dugong/ Sea Cow/ Dugong Dugon	VU
Green Turtle/ Chelonia Mydas	EN
Total	7
	10
	10
	3
	CR
	EN
	VU
	NT

Source: IUCN Red List of Endangered Animals in Indonesia, 2022

Based on the data above, several species fall into the categories of Critically Endangered (CR), Endangered (E), Vulnerable (VU), and Near Threatened. Therefore, this conservation effort has a tight impact on the sustainability of various animal species. The extinction of one species creates an irreplaceable void.

Therefore, conservation efforts and actions are needed to ensure the diversity of species, including the conservation of these creatures to prevent their extinction. It also aims to support the animals to function in nature and be ready to be utilized for human well-being at any time. Hence, conservation or protection efforts for wildlife and plant species are crucial pillars in the realization of the conservation of biological resources and their ecosystems.

These objectives are in line with the teachings of Islam. Therefore, the Indonesian Ulema Council (MUI) issued Fatwa No. 4 of 2014 regarding the Preservation of Endangered Species for Ecosystem Balance. Based on Islamic teachings, in this fatwa, the MUI decides, among other things, that every living creature has the right to continue its life and can be utilized for the benefit of human beings.

The classification is crucial in maintaining the ecosystem and food chain for keeping the balance of the natural cycle and drawing the government's attention towards issuing regulations and decisions. The purpose of this article is to assess the effectiveness of legislation governing the hunting of wildlife within the ecosystem, whether they have been accommodated in the intended protection to anticipate species extinction and harmonized with Islamic principles that bring goodness to the entire universe (*hifz al-A'lam*) and all its creatures. Based on the benefits above, the classification indicated the importance of protecting wildlife. It is not only for endangered species but also for non-endangered ones. Conservation is to prevent, minimize, and address the extinction of species not included by the legislation.

Imam Hanafi, meanwhile, uses 'urf in arguing for the law (*hujjah*) when it is not stated in the Qur'an, al-hadith, *ijma'* (scholars' consensus), and *istihsan* (the assumption of the goodness of something). Imam Malik even left *qiyas* (a method of formulating law based on analogy) if it was against 'urf. Both Imam Shafi'i and Hanabilah scholars accept 'urf if it does not conflict with the Qur'anic and hadith texts.⁶

Ahmad al-Raysūnī stated that *al-shar'ah kulluha mu'allal* (the entire dimension and sharia aspect has a purpose). It means that everything commanded and prohibited by Allah SWT has wisdom and a purpose in the form of benefits to humans. The benefits of 'Izz al-Dīn Ibn 'Abd al-Salām divided into two categories: *maṣlahah duniyawiyyah* dan *maṣlahah ukhrawiyyah*. Thus, there are acts of worship whose benefits can be experienced in both the worldly life and the hereafter (*ma'qūl*). Besides, there are also acts of worship whose wisdom, purpose, and benefits can only be obtained in the hereafter (*gair ma'qul alma'na*).⁷

⁶ Moh Rosyid and Lina Kushidayati, "Anticipating Disaster: The 'Urf Perspective of Rebo Wekasan Ceremony in Kudus, Central Java," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 17, no. 1 (2022), p. 91–112.

⁷ Izzudin Ibn Abd as-Salam, *Qawaid Ahkam Fi Masalih Al-Anam* (Beirut: Dar al-Kutb al-Ilmiyah, 2010).

Basically, the five concepts of maqāṣid al-sharī'ah are not final formulations. Scholars always engage in new interpretations and reconstructions of these universal principles to align with the development of time. Efforts to renew maqāṣid al-sharī'ah have been made by several scholars, including Rashīd Riḍā, Ibn 'Ashūr,⁸ 'Alāl al-Fāsi," Muhammad al-Ghazālī, ash-Syatibi,⁹ Najmuddin at-Thufī,¹⁰ Ṭaha Jābir al-'Alwānī, Yūsuf al-Qarḍawī, and others. In his intellectual configurations, "Rashīd Riḍā is considered to have made a significant contribution by incorporating women's rights into the maqāṣid, which have been overlooked in classical fiqh "all inspired" by the French Revolution. Ibn 'Ashūr formulated maqasid sharia in line with freedom, egalitarianism, and justice principles. Yūsuf al-Qarḍawī added human rights and democracy to the aspects of *maqasid sharia*.¹¹

Environmental problems cannot be overcome only through repositioning human relations with their natural environment, but must also through reorienting values, ethics and norms of life, both religious and cultural which are then concluded in collective action, as well as restructuring social relations between individuals, individuals and groups, groups with groups, and between groups and larger organizations (eg countries, international institutions).¹²

The method used in this research is a type of normative research or library legal research. The ultimate focus involves examining literature materials that include legal mechanisms in the form of legislation and decisions issued by relevant authorities, applying a statutory and socio-legal approach.¹³ The research relates to animal conservation policies examined from the perspective of maqasid Shariah, which emphasizes the protection of animals that have not been accommodated yet in legislation. The aim is to provide suggestions to the government in issuing legislation or decisions in the form of policies oriented toward non-endangered or threatened wildlife conservation.

The Issue of Animals and Their Ecosystems

Currently, the issue of animal conservation emerged alongside the development of the industrial and agricultural sectors that disturb the ecosystems where these animals reside. It is evident in various national media outlets, both print

⁸ Darul Faizin, "Kontribusi Muhammad Aṭ-Ṭāhir Ibnu 'Āsyūr Terhadap Maqāṣid Asy-Syarī'Ah," *El-Mashlahah* 11, no. 1 (2021), p. 1–12.

⁹ Taufiqurohman and Fauziah Nelli, "The Evaluation Of Maqasid Asy-Syariah on Discourses Og the Oslamic Family Law" 5, no. 2 (2023), p. 89–95.

¹⁰ Diky Faqih Maulana and Abdul Rozak, "Istihsan As a Finding Method of Progressive Islamic Law in the Industrial Revolution Era 4.0," *El-Mashlahah* 11, no. 2 (2021), p. 127–45.

¹¹ Suryani, "Pengarusutamaan Hifz Al-'Alam Sebagai Bagian Dari Maqasid Syariah," *At-Tahrir* 17, no. 2 (2017), p. 358–59.

¹² Nurdin Karim et al., "Environmental Conservation of Coral Reefs in the Wakatobi Region Based on Islamic Education and Customary Law Approaches," *Samarah* 8, no. 3 (2024), p. 1547–65.

¹³ Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo, 2012).

and online, reporting on this matter. This development coincides with Indonesia's progression towards becoming an advanced nation.

Correspondingly, referring to data from the National Disaster Management Agency (Badan Nasional Penanggulangan Bencana/BNPB) 2021, at least 5.402 natural disasters occurred in Indonesia due to environmental damage.⁵ Even more worrying, according to The Global Assessment Report on Biodiversity and Ecosystem Services (IPBES) 2021 data, Indonesia loses 650 thousand hectares of forest yearly due to illegal logging and forest burning.⁶ In addition, other effects of environmental damage also result in global warming. The Indonesian Forum for the Environment (Wahana Lingkungan Hidup Indonesia/WALHI) noted that the earth's temperature has now increased by 1.1 degrees Celsius.¹⁴

The issue arises when the government takes steps to address the problem of the extinction of existing animals by issuing legislation or decisions from policymakers. On the other hand, government policies in issuing such regulations are not aligned with the demands of the market commodities regarding the existence and utility of these animals. It includes their use in beauty and cosmetic products, pharmaceuticals, and even as primary materials in crafting.¹⁵

In addition, the issue is not limited to the case mentioned but extends beyond that. The level of commitment and dedication of the government is scrutinized when there are demands for land clearance to accommodate the interests of national and foreign investors, such as the opening of land for palm oil plantations, which obtain business permits from the government. The activity contributes to the animals' problems, as they are connected to the ecosystems where they live, grow, and thrive.¹⁶

The presence of animals in maintaining their habitat and ecosystem is disrupted by rampant hunting, encroachment, and the conversion of forest areas into settlements, indirectly leading to a decline in the population and reproductive capabilities of protected animals, including those categorized as endangered, critically endangered, and rare. Therefore, the government has implemented regulations as one of the tools to address and provide protection for animals to maintain their populations in their habitat sustainability. One of the government's initiatives in minimizing and addressing the issue of wildlife protection is the enactment of laws, such as prohibiting the trade of protected species.

Furthermore, the government also empowers the Natural Resources Conservation Agency (BKSDA), which has primary tasks and functions including the management of Wildlife Reserves, Nature Reserves, Nature Tourism Parks, and Hunting Parks, as well as the conservation of plant and wildlife species both within

¹⁴ Muhaemin Latif et al., "Environmental Theology and Its Relevance to Islamic Law: Perception of Makassar Muslim Scholars, Indonesia," *Samarah* 7, no. 3 (2023), p. 1734–56.

¹⁵ N Permatasari, "Analisis Kebijakan Pemerintah Dalam Perlindungan Satwa Langka Di Indonesia," *Ajudikasi: Jurnal Ilmu Hukum* 5 (2021), p. 83–98.

¹⁶ Wildanu S Guntur, Sabar Slamet, and Tindak Pidana, "Kajian Kriminologi Perdagangan Ilegal Satwa Liar" 8, no. 2 (1999), p. 176–86.

and outside the areas. These tasks and functions encompass the organization of blocks, the development of plans, programs, and evaluations for the management of Wildlife Reserves, Nature Reserves, Nature Tourism Parks, and Hunting Parks, as well as the conservation of plant and wildlife species within and outside the areas. The agency is also responsible for the protection, security, and quarantine of biological resources within and outside the places, firefighting and fire prevention in the areas, promotion and dissemination of information on the conservation of natural resources and their ecosystems, Wildlife Reserves, Nature Reserves, Nature Tourism Parks, and Hunting Parks. It also facilitates nature-based tourism, promotes environmental awareness, and provides education on the conservation of living natural resource and their ecosystems. The BKSDA plays a role in collaboration for the developing living natural resources and their ecosystem conservation, administrative matters, and internal affairs.¹⁷”

Through the BKSDA, the government becomes aware of violations regarding the illegal buying and selling of endangered species through online media and social networks such as Twitter and Facebook. The practice of buying and selling through these media platforms is illegal and can pose a threat to the conservation of animals. The animal species is categorized as a protected species when it has three indicators a small population, a significant decline in the number of individuals, and a limited distribution range (endemic).¹⁸ As regulated in Article 5 paragraph (1) of "Government Regulation" No. 7 of 1999 on the Conservation of Plant and Animal Species," which aims to facilitate the classification of rare protected plant and animal species, as well as their populations and distributions, and to prevent extinction by providing legal protection and conservation measures.

Regardless of the legal protection sought by the government in protecting animals, some problems arise concerning animals and their ecosystems, including habitat degradation, loss of food sources, reduction in biodiversity, and the emergence of genetic diseases. The erosion of animal habitats is caused, among other factors, by illegal hunting. It leads to the depletion of animal habitats as illegal hunters and traders seek to profit through mutualistic symbiosis for the availability of trade goods, thereby disrupting the food chain cycle. The loss of food sources is an undeniable contributing factor. The encroachment of forest areas for commercial purposes, such as the conversion to palm oil plantations, indirectly results in the erosion of animal habitats and the loss of food sources. The problem of habitat

¹⁷ Kementerian Lingkungan Hidup dan Kehutanan, “Peraturan Menteri Lingkungan Hidup Dan Kehutanan Nomor P.8/Menlhk/Setjen/OTL.0/1/2016 Tentang Organisasi Dan Tata Kerja Unit Pelaksana Teknis Konservasi Sumber Daya Alam,” *Berita Negara 2016 No. 205*, 2016, 134,http://ksdae.menlhk.go.id/assets/news/peraturan/P.8_ORGANISASI_DAN_TATA_KERJA_UPT_KSDA_.pdf.

¹⁸ peraturan Pemerintah Republik Indonesia Nomor 7 Tahun 1999 Tentang, Pengawetan Jenis Tumbuhan Dan Satwa, and Presiden, “Peraturan Pemerintah Republik Indonesia Nomor 7 Tahun 1999 Tentang Pengawetan Jenis Tumbuhan Dan Satwa Presiden,” no. 7 (2011), p. 1–19.

erosion and the depletion of food sources have wide-ranging impacts, disrupting the food chain cycle as hunting disrupts the food supply and leads to a decline in biodiversity. Genetic diseases can lead to the extinction of species with small populations, reducing the opportunities for breeding in both the wild and captivity.¹⁹

Animal Conservation in Normative Legal Policy

The existence of animals is inseparable from their habitat. In this case, forests as animal ecosystems are in Article 6 of the Forestry Law. It states that the primary functions of forests are conservation, preservation, and production.²⁰ The Conservation Law states the conservation of natural resources and their ecosystems through protection, preservation, and utilization.²¹

Animal conservation can also be utilized under certain conditions while still considering their sustainability, biodiversity, and populations, as regulated in Article 36 of the Conservation of Natural Resources Law regarding assessment, research, and development; captive breeding; hunting; trading; exhibition; exchange; cultivation of medicinal plants; and maintenance for recreational purposes.

The utilization of various animal species should be accompanied by maintaining the balance of populations, ecosystems, and habitats. It is under Government Regulation (PP) No. 8 of 1999 regarding the Utilization of Wild Plants and Animals. This regulation accommodates utilization through captive systems. From the perspective of legal protection theory, its purpose is to harmonize and align perceptions regarding societal interests, allowing them to coexist with the interests of the law, which holds the highest authority in determining public interests that require regulation and protection.

Legal protection must arise from legal provisions resulting from the agreement between each society and the government. It is a manifestation of safeguarding the interests of the community. This concept constitutes protection for legal subjects from applicable legislation that is binding and compulsory in its implementation. Legal protection consists of preventive protection provided by the government and emphasizes prevention before any violations occur. One form of the legal foundation established by the government is stipulated in Law Number 5 of 1990.²² Therefore, the animals' existence is also related to the government through regulatory mechanisms in preserving wildlife.

Repressive protection serves as the final stage of protection mechanisms by imposing sanctions such as fines, imprisonment, and additional penalties in cases of

¹⁹ Permatasari, "Analisis Kebijakan Pemerintah dalam Perlindungan Satwa Langka Di Indonesia."

²⁰ Hanif, "Upaya Perlindungan Satwa Liar Indonesia Melalui Instrumen Hukum Dan Perundang-Undangan," 2015.

²¹ Dewan Perwakilan Rakyat, "Undang-Undang Nomor 5 Tahun 1990," 1990.

²² Safrizal, "Perlindungan Hukum Terhadap Satwa Liar (Studi Konflik Gajah Dengan Manusia Di Aceh Timur) Menurut Hukum Pidana Islam" (Universitas Islam Negeri Ar-Raniry, 2019).

conflict or violations. This 'legal protection' is expected to minimize criminal activities and protect wildlife. Therefore, legislation is one of the government's policy instruments to provide solutions and anticipate crimes against animals.

Animal conservation in the normative legal policy encompasses various levels and foundations for protecting animals. The legal instruments for animal protection and conservation include the Convention on International Trade in Endangered Species (CITES), the Universal Declaration of Animal Rights, the Solemn Proclamation proclaimed in Paris on 15 October 1978 at the UNESCO headquarters, and the UN Convention on Animal Health and Protection (UNCAHP).²³ Referring to the protection of wildlife, which is internationally recognized, the country, in this case, has ratified legal mechanisms, including the issuance of Presidential Decree of the Republic of Indonesia (Keppres) Number 43 of 1978 concerning "Species of Wild Fauna and Flora"; Law Number 5 of 1990 concerning the Conservation of Biological Resources and their Ecosystems; Law Number 41 of 1999 concerning Forestry; Law Number 32 of 2009 concerning Environmental Protection and Management; Law Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Livestock and Animal Health; Government Regulation Number 8 of 1999 concerning the Conservation of Plant and Animal Species; Government Regulation Number 7 of 1999 concerning the Conservation of Plant and Animal Species; Government Regulation Number 68 of 1998 concerning Nature Reserves and Wildlife Sanctuaries; Government Regulation Number 13 of 1994 concerning Hunting of Game Animals; Presidential Decree of the Republic of Indonesia Number 4 of 1993 concerning National Animals and Flowers; Minister of Forestry Decree Number 26/KPts-II/1994 concerning the Utilization of Long-Tailed Macaques (*Macaca fascicularis*), Pig-Tailed Macaques (*Macaca nemestrina*), and Arowana Fish (*Scleropages formosus*) for Export Purposes; Minister of Forestry and Plantation Decree Number 104/KPTS-II/2000 concerning Procedures for Collecting Wild Plants and Capturing Wild Animals; and Minister of Environment and Forestry Regulation Number P.106/Menlhk/Setjen/Kum.1/12/2018 concerning the Second Amendment to Minister of Environment and Forestry Regulation Number P.20/Menlhk/Setjen/Kum.1/6/2018 concerning Protected Species of Plants and Animals.”

The Existence of Animals in the Islamic Perspective

Species conservation is a form of animal protection aimed at preventing the extinction of species within an ecosystem. The extinction status is characterized by a situation where the last individual of a species is no longer found on Earth. For example, the case of the Javan tiger, Bali tiger, and passenger pigeon.

Hunting activity is not only limited to the people in the past. Nowadays, many hunting activities happen everywhere. Islam has established regulations (laws) about

²³ Safrizal, "Perlindungan Hukum terhadap Satwa Liar"

hunting (*ash-shoid*) based on the Qur'an and Hadith, supported by *Ijma'* (consensus) and *Qiyas* (analogical reasoning) in the field of jurisprudence.²⁴

Fatwa occupies an essential position in Islamic law as it is a legal opinion expressed by Islamic jurists (*fuqahā'*) in responding to a new problem that arises in society while no explicit legal provision exists. In Indonesia, fatwas are not binding. A fatwa can only be binding if an authorized institution has made the fatwa into a law and regulations. Even though they are not binding, fatwas are considered necessary in guiding Muslims' lives. Besides, fatwas can be a symbol of morality in responding to global issues.²⁵

The Indonesian Ulema Council (Majelis Ulama Indonesia or MUI) has issued a decree through the Congress issued by the Indonesian Ulema Council (MUI) No. 4 of 2014 regarding the conservation of endangered species as a balance to the ecosystem. Based on Islamic principles, the MUI fatwa (religious ruling) decides, among other things, that every living creature has the right to fulfill its life needs and utilize them for getting the benefit of individuals and the public interest. Moreover, the MUI also makes a decision to treat endangered animals harmoniously (*ihsan*) by preserving and conserving them to ensure their survival. There are several efforts to treat the animals well. They are a. ensuring their basic needs such as food, shelter, and reproduction; b. avoiding burdening them beyond their capacity; c. avoiding gathering them with other animals that may pose a threat; d. maintaining the habitat well; e. avoiding illegal hunting and trading; f. mitigating conflicts with humans; and the last g. preserving animal welfare.²⁶

Based on the issue regarding the existence of these animals, the Indonesian Council of Ulama (MUI) itself has issued fatwa no. 4 of 2014 about the legal status of hunting animals, stating that it is prohibited for Muslims to kill, harm, abuse, hunt, or engage in activities that threaten the extinction of rare animals, unless there is a valid sharia reason or underlying emergency condition, namely to protect and save human lives. Moreover, it is also prohibited for Muslims to engage in illegal hunting or trading of rare animals.²⁷

The identity of legal certainty with tradition cannot be avoided, as Islamic law itself is inherently universal, governing the norms of different ethnic communities.²⁸ Thus, it can be a consideration in establishing a more beneficial and just law.

²⁴ Fachrurazi, "Fatwa Satwa (Kajian Fiqh Dan Hukum Positif Tentang Perburuan Satwa)," *Jurnal El-Maslahah* 13, no. 1 (2017).

²⁵ Tri Harnowo and Fachry Hasani Habib, "Islamic Law and Environment Issues: Indonesian Ulama Council's Fatwas on Climate Change," *Ahkam: Jurnal Ilmu Syariah* 24, no. 1 (2024), p. 101–18.

²⁶ MUI, "Fatwa MUI No. 4 Tahun 2014, Tentang Pelestarian Satwa Langka," in *Fatwa MUI Nomor 4 Tahun 2014*, 2014.

²⁷ MUI, "Fatwa MUI No.4 Tahun 2014,

²⁸ Moh dan Lina Kushidayati Rosyid, "Anticipating Disaster: The Urf Perspective of Rebo Wekasan Ceremony in Kudus, Central Java," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 1, no. 17 (2022), p. 105.

It demonstrates the importance of preserving and conserving the animals within their ecosystems as a form of mutual care for the existence of diverse creatures God has bestowed upon humanity for the common good. Essentially, none of His creations are in vain, as they are intended for humans to utilize wisely and responsibly in line with the guidance of religious law.

The command for animal conservation has also been emphasized and regulated in the Qur'an and the sayings of the Prophet Muhammad, including: "The rights and ethics towards animals" in Surah An-Nahl [16]: 7-8, Surah Al-Jatsiyah [45]: 13, and the prohibition of indiscriminate killing of animals in Surah Al-Ma'idah [5]: 95."

"Regarding environmental conservation, many verses in the Qur'an convey messages that the reader can interpret contextually regarding the obligation to preserve the environment. Allah affirms in Surah Taha, verse 6, this verse emphasizes to humans not to exceed their authority because humans are not the rightful owners of the earth and everything in it. Allah is the creator and owner of everything. Humans have no right to damage the property of Allah. Humans are obliged to preserve the property of Allah as a trust given to them."

The term fauna (animals) mentioned in the Quran is referred to as the term "دابة/الدواب" or the term "الأنعام". Each term is mentioned 18 and 32 times. Then, *dabbah* is interpreted as crawling creatures, animals, and livestock. While *al-an'am* is defined as livestock, including camels, cattle, and sheep. Mahmud Yunus also includes buffalo.²⁹

"There are various types of mammals, birds, insects, reptiles, and amphibians among the animals mentioned in the Qur'an. The Qur'an contains around 200 verses that discuss animals generally and refer to some types. However, there are no detailed explanations about the lives of animals.³⁰

Treating animals well means not hurting or demeaning them. Discussing the relationship between humans and animals is closely related to sustainable ecosystems. As explained by Fazlur Rahman Ansari, everything on earth is created for us. Therefore, it is the natural obligation of humans to preserve everything from destruction, utilize it while maintaining its dignity as a creation of Allah, conserve it properly, and express gratitude for the blessings of God through tangible actions.³¹

Animal Conservation in Maqasid Sharia Perspective

The long history of the formulation of maqāsid al-sharī'ah, which began in the 3rd century, ended in the 8th century in the era of al-Syātībī who made maqāsid al-sharī'ah the principle of Islamic law and therefore he is called the founder of maqāsid al-sharī'ah science. The major role played by al-Syātībī is: first, making maqāsid

²⁹ Mardiana, "Kajian Tafsir Tematik Tentang Pelestarian Lingkungan Hidup,," *Al-Fikr* 1, no. 17 (2013).

³⁰ Tim Badan Litbang dan Diklat Kementerian Agama RI, *Tafsir Al-Quran Tematik* (Jakarta: Lajnah Pentashihan Mushaf Al-Quran, n.d).

³¹ Muhammad Fazlur Rahman Ansari, *The Qur'anic Foundation and Structure of Muslim Society*, Karachi: Trade and Industry Publications, 1973, Vol. 2., p.126.

which was originally loose *maslahat* into a legal principle; second, shifting the position of *maqāsid* (the purpose of sharia) from the wisdom behind the rules to the basis for formulating the rules; and third, establishing the position of *maqāsid* from uncertainty to belief based on the process of induction from the text (Al-Quran and Hadith).³²

The key messages of Islam contained in the Qur'an and Sunnah, such as monotheism (unity), caliphate and trust (guardianship and responsibility), sharia (ethical actions), justice, and moderation, serve as pillars for the formulation of Islamic environmental ethics. Moreover, when examined closely, Islam strongly supports the preservation of nature and the environment. It is evident in numerous verses of the Qur'an, both implicitly and explicitly condemning the severe destruction of nature and the environment.³³

In this context, those with eco-literacy are typically well motivated to protect and preserve the environment. They will likely arrange and apply a healthy and environmentally friendly lifestyle while making it harmonious with environment balances. This environmentally conscious attitude (eco-literacy), furthermore, will guide the whole aspects of their life and make it strongly-rooted culture that penetrates their mindset to build a sustainable society in a larger scope.³⁴

“Islam has taught its followers to show compassion towards animals and preserve their lives as one of Allah's creations. In the Qur'an, Allah reminds humanity that the Creator has made everything in the universe, including animals, as a trust that people must protect them. Human beings do not have unlimited rights to exploit nature and disrupt its ecological balance. Islam does not condone the mistreatment of animals for sports or reckless experimentation. It is to ensure the existence of these creatures, as emphasized in verses such as Surah Al-Baqarah: 164 and Surah Al-Ma'idah: 2.

Some narrations demonstrate the importance of showing kindness towards animals. Meanwhile, in the hadith literature, the Prophet has taught that human attitudes and actions toward animals will determine their fate in the hereafter. One hadith narrates: A woman who was a prostitute once saw a dog on a scorching hot day. The dog was circling a well, panting from thirst. The woman took off and used her shoe to draw water for the dog. As a result of her compassionate act, her sins were forgiven (Narrated by Muslim). On the other hand, if a person mistreats animals, the Prophet Muhammad (peace be upon him) said: A woman was punished and thrown into hell because she locked up a cat and did not feed it or give it water

³² Agus Purnomo et al., “Characteristics of Hate Speech and Freedom of Expression in the Perspective of *Maqāsid Al-Shari'ah*,” *Juris: Jurnal Ilmiah Syariah* 22, no. 1 (2023), p. 171–83.

³³ Munib et al., “Conservation Environmental Sustainability in The Perspektif Of Islamic Legal Philosophy,” *Samarah: Jurnal Hukum Keluarga & Hukum Islam* 6, no. 2 (2022), p. 49.

³⁴ Moh Mufid, “Green Fatwas in Bahtsul Masail: Nahdlatul Ulama's Response to the Discourse of Environmental Crisis in Indonesia,” *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 2 (2020), p. 173–200.

until it died. She neither provided food for the cat while she imprisoned it nor did allow it to eat from the vermin (Narrated by Bukhari).³⁵

There are two factors cause the issue of environmental problems. First, natural occurrences. It is an event that must happen as part of the dynamics of nature itself. Second, the actions of human hands result in disasters. Among the numerous problems regarding environmental damage, humans play a significant role in causing destruction. As a consequence, humans themselves bear the risks they have chosen. Thus, they get what is harmful and abandon what is beneficial.³⁶

The use of the *fasād* term has the meaning خروج الشيء عن الإعتدال (something that has gotten out of balance). It pertains to the soul (spiritual), the body (physical), and anything that deviates from the natural balance. In the Quran, when the term 'fasād' appears as a standalone noun, it indicates physical or sensory damage, such as floods, air pollution, etc. However, when it appears as a verb or a noun following a verb, it predominantly signifies non-physical damage, such as disbelief, polytheism, hypocrisy, and the like.³⁷

“Ahmad al-Raysūnī said *al-sharī'ah kulluha mu'allal* (all dimensions and aspects of Sharia have a purpose). It means that everything commanded and prohibited by Allah SWT has wisdom and purpose in the form of benefits for human beings. These benefits are further categorized by ‘Izz al-Dīn Ibn ‘Abd al-Salām into two categories *maṣlaḥah duniyiyah* and *maṣlaḥah ukhrawiyah*. Therefore, there are acts of worship whose benefits can be experienced in both the world and the hereafter (rational benefits/*ma'qūl*), and there are also acts of worship whose wisdom, purpose, and benefits can only be realized in the Hereafter (non-rational benefits/*gair ma'qul alma'na*).³⁸

Talking about the implementation of *maqasid sharia*, fundamentally, the five concepts of it are not final formulation. Scholars always engage in new interpretations and reconstructions of these universal principles to align with the developments of the time. Efforts to renew *maqāṣid al-sharī'ah* have been made by several scholars, including Rashīd Riḍā, Ibn ‘Ashūr, ‘Alāl al-Fāsi,” Muhammad al-Ghazālī, Ṭaha Jābir al-Alwānī, Yūsuf al-Qardawī, and others. In his intellectual configurations, Rashīd Riḍā is known for his significant contribution to incorporating the rights of women as part of *Maqasid*, which had been neglected in classical fiqh, inspired by the French Revolution. Ibn ‘Ashūr formulated *maqāṣid sharia* in harmony with freedom, egalitarianism, and justice principles. Yūsuf al-Qaradawī added human rights and democracy to the *maqāṣid sharia* framework.³⁹

³⁵ Muhammad bin Ismail Abu Abdulla Al-Bukhariy Al-Ja'Fiya, Lijami'i Shahih al-Bukhari, Bairut: Libanon Dar al-Kutub al-Ilmiyyah, p. 87.

³⁶ Istianah, Upaya Pelestarian Lingkungan Hidup Dalam Perspektif Hadis, Jurnal: Riwayah, Vol. 1., No. 2, September 2015, p. 251.

³⁷ Reflita, “Eksplorasi Alam Dan Perusakan Lingkungan (Istinbath Hukum Ayat-Ayat Lingkungan),” *Substantia* 17, no. 2 (2015), p. 150.

³⁸ Izzudin Ibn Abd as-Salam, *Qawaid Ahkam Fi Masalih Al-Anam*.

³⁹ Suryani, “Pengarutamaan Hifz Al-'Alam Sebagai Bagian Dari Maqasid Syariah.”

The issues of environmental and wildlife crises pose serious problems that need attention to prevent the expanding threats to protected species and their safety and preservation. Consequently, based on the concept of maqasid sharia, Ali Yafie proposes that environmental conservation (*hifdh al-bī'ah*) should also be part of maqasid sharia. It is because ecosystem degradation is a significant problem faced by the Muslim community today, including the ecosystems within it (wildlife). Therefore, just as a rule emphasizes to protect of one's life and religion, it is now also appropriate to consider that *hifdh al-bī'ah* (environmental preservation) is a religious obligation, considering that human life heavily relies on the sustainable preservation and safety of the environment and living creatures. As a result, the concern for the environment should be evident in the daily routines of the Muslim community.⁴⁰

Every policy and regulation established by the government should be oriented towards the welfare of both human beings and the environment, including the wildlife within it. It aligns with the principle in Islamic jurisprudence or *fiqh* rule that states: *tasarruf I-imami 'ala al-ra 'iyyati manutun bil-maslahah*. It means that every policy or regulation intended for the people should be oriented toward their welfare.⁴¹ Some scholars interpret *maslahah* as the public interest or the interests recognized by the law.⁴²

“There are several aspects related to environmental jurisprudence in which humans, known as stewards of the Earth, have a responsibility to fulfill by taking preventive actions to preserve the environment. One of these aspects is life and physical well-being (*hifdh al nafs*) protection.⁴³ From the perspective of environmental jurisprudence, every soul and physical body of living beings is considered sacred and noble. Therefore, it is necessary to provide continuous care and protection to every living creature (humans, animals, plants) without paying attention to their status or rank. It is to harmonize the goals of worldly and hereafter life. Jurisprudence explains the regulation of human life, which encompasses the arrangement of interactions between humans and Allah SWT, between fellow human beings, and also the relationship between humans and nature.

Aligning worldly goals with the hereafter is reflected in how humans treat nature. Humans can fulfill their needs of life's journey without forgetting the ultimate goal of attaining the pleasure of Allah SWT. The human need for production and consumption must be balanced. Environmental jurisprudence governs the arrangement of human needs in producing or consuming something, ensuring that it aligns with human capabilities to fulfill those needs. It is based on the prohibition of

⁴⁰ Ali Yafie, *Merintis Fiqh Lingkungan Hidup*, Jakarta: Yayasan Amanah, 2006.

⁴¹ Luqman Zakariya, *Islamic Legal Maxims (Al-Qawaid Fiqhiyya): Historical Development, Concept and Content* (Nijhoff: Brill, 2015).

⁴² Mahmud Ridha Taufiki, Muhammad dan Rokani Darsah, “The Use of Maxims (Al-Qawaid Al-Usuliyyahh Wa Al-Fiqhiyyah) in Legal Argumentation of Sharia Economic Court Decisions in Indonesia,” *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 17, no. 1 (2022), p. 179.

⁴³ R.Wahyu Agung Utawa, “Tinjauan Maqasid Syariah Dan Fiqh Bi'ah Dalam Green Economy,” *Jurnal Ekonomi Islam* 10, no. 2 (2019), p. 249–50.

excess and extravagance in all matters, thus helping to maintain the balance of the ecosystem. Humans must cultivate and preserve nature, including their role in maintaining ecological balance, which involves protecting animals. People will find it easier to meet their needs when the ecosystem is well preserved. All living creatures are noble (*muhtaram*). By safeguarding the ecological balance, humans also protect every living being. Non-human living beings can be saved and utilized in a balanced manner without being hunted to extinction. Humans carry out their stewardship duties in cultivating and managing the universe.

Derived from various explanations about the basic principles of environmental jurisprudence, they all relate to the human's role as a *Khalifah* on Earth. Humans, equipped with intellect and reasoning, can cultivate and manage the universe. Most of the Islamic perspectives on environmental preservation focused on humans. In addition, as the steward on earth, humans are entrusted with the exhaustive responsibility of managing the universe and other creatures. Based on the study of maqasid sharia, there is a legal reconstruction due to the expansion of the meaning of these objectives. Maintaining and conserving animals falls into the *daruriyah* category (necessities), encompassed by *hifz al-Mal* (protecting wealth), which was initially in the context of safeguarding material possessions. Currently, it is reinterpreted within the concept of *hifz al-bi'ah*,⁴⁴ which includes the natural ecosystem and wildlife conservation for the sustainable well-being of all.

Methods used in the previous periods of pre-modern Islam, such as *siyāsah*, *mašlahah*, *ḍarūrah*, and *ḥiyal*, were used again actively. Additionally, a so-called *ijtihād tanzīlī* was and is still widely used to provide solutions to legal problems, and it is achieved through comparative analysis of and liberal analogies to the view of the past masters and the traditional manuals. The term *ijtihād tanzīlī* must not be confused with suggesting the abandonment of *taqlīd* since it was only an attempt to find solutions to the new problems not explicitly covered and directly by the texts of the Quran and Hadith or discussed in the manuals of the *madhhab* or no *fatwā* was issued by any *ulama* of the past, using the theoretical formulation of the established *madhhab*.⁴⁵

In Islamic law, all animals, whether permissible to eat or prohibited, must be treated with kindness and compassion. Such behavior undoubtedly earns a reward from God, the Creator of the universe (ecological returns). It is because all of Allah's creatures on earth are treated justly. On the other hand, behaviors that lead to destructive actions pose threats and harm to humans themselves.⁴⁶

⁴⁴ Liza Diniarizky Putri et al., "Developing Ecological Piety in Pesantren: The Kyai's Cognition and the Practice of Living Fiqh Al-Bi'ah in Banten," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2023), p. 235–59.

⁴⁵ Mohd Hafiz Jamaludin, Ahmad Hidayat Buang, and Arip Purkon, "Talfiq as A Method for Legal Solutions in Contemporary Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 24, no. 1 (2024), p. 55–66.

⁴⁶ Efendi et al., "Animal Protection in the Perspective of Positive Law and Islamic Law: A Study of Elephant-Human Conflict in Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga & Hukum Islam* 7, no. 1 (2023), p. 192.

Animal conservation in Indonesia is independently regulated, not only through the regulatory but also through the fatwa (Islamic legal opinion) issued by MUI (Indonesian Ulema Council). This fatwa serves as a guide for Muslims in Indonesia to consistently conserve protected wildlife, including guiding for humans to address conflicts between humans and animals that result in the death of protected species such as elephants, tigers, orangutans, mammals, birds, reptiles, and other creations of Allah SWT. Islamic teachings have affirmed that none of His creatures are futile for humans. Performing goodness (*ihsan*) towards animals is a religious commandment because animals are part of the world, just as humans are. Hence, the obligation to practice kindness (*ihsan*) and demonstrate empathy towards humans extends to encompass animals. The presence of animals as part of nature holds significant value in every era, and treating them well by protecting them from extinction following Islamic teachings is rewarded with ecological rewards. Islamic teachings provide guidance and principles that animals have the right to seek protection and remain sustainable. Islam teaches goodness towards every living creature, including the wildlife within the ecosystem, to achieve beneficial outcomes that are part of the concept of *maqasid al-shariah*, specifically the conservation of natural resources (*hifz al-mal al-bi'ah*).

Conclusion

Animal conservation is a necessity. Therefore, it must be protected and sustained through government accommodation with various regulations and legal instruments and through religious efforts by environmental scholars with their fatwas to anticipate the natural damage along with the existing wildlife. Based on the phenomena observed in wildlife hunting, whether it involves rare or non-rare categories, at least two aspects need to be anticipated to minimize the preservation of these species. First, it involves recommendations to the government to create policies, including regulations and decisions oriented towards non-rare wildlife. It includes educating the public about rare and non-rare wildlife, setting educational targets, supporting conservation efforts, and establishing breeding programs. Second, from the perspective of *Maqasid al-Shariah*, the conservation of wildlife falls under the category of *daruriyah* (necessities), where the preservation of ecological species must be protected and sustained for the sake of continuity, to preserve the element of *Hifz al-Mal* (the protection of natural ecosystem resources). It is to support the harmony and richness of the natural ecosystem, including the preservation of wildlife, which receives guarantees of protection both through normative legal aspects and religious provisions according to Sharia.

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