

**ANALYSIS OF GROUNDWATER CONSERVATION
POLICY IN PROVINCIAL REGULATION OF SOUTH
KALIMANTAN NUMBER 5 OF 2018
ON GROUNDWATER MANAGEMENT REVIEWED
FROM ECOLOGICAL FIQH**

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Abstract: For maintaining the existence and preservation of natural resources, in this case namely the Provincial Government of South Kalimantan has organized a groundwater conservation program. However, this policy must in accordance with the provisions of Islamic teachings because this district is inhabited by the majority of the Muslim community. The research aims to describe the overview of groundwater conservation policy in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management and an ecological fiqh perspective on the groundwater conservation policy. This study uses the literature study method with a normative juridical approach. Its' legal material is the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management and other related regulations. The results showed that the groundwater conservation policy in South Kalimantan was carried out with three programs, namely: groundwater protection and preservation, groundwater conservation and groundwater conservation, and determination of groundwater conservation zones. The policy is implemented by involving community participation. The groundwater conservation policy of South Kalimantan Province in terms of Ecological Jurisprudence is a form of embodiment of the teachings of environmental wisdom that can strengthen intellectual and spiritual aspects, including the concept of monotheism.

Keywords: policy, conservation, groundwater, fiqh, ecology.

Abstrak: Untuk mempertahankan keberadaan dan kelestarian sumber daya alam dalam hal ini air tanah, Pemerintah Daerah Provinsi Kalimantan Selatan menyelenggarakan program konservasi air tanah. Namun kebijakan tersebut tentu harus sesuai dengan ketentuan ajaran Islam karena daerah ini dihuni oleh

mayoritas masyarakat muslim. Penelitian bertujuan untuk memberikan gambaran tentang kebijakan konservasi air tanah dalam Peraturan Daerah Provinsi Kalimantan Selatan Nomor 5 Tahun 2018 tentang Pengelolaan Air Tanah dan perspektif fikih ekologi terhadap kebijakan konservasi air tanah tersebut. Penelitian ini menggunakan metode studi kepustakaan dengan pendekatan yuridis normatif. Bahan hukum penelitian yaitu Peraturan Daerah Provinsi Kalimantan Selatan Nomor 5 Tahun 2018 tentang Pengelolaan Air Tanah dan regulasi lain yang terkait. Hasil penelitian menunjukkan bahwa kebijakan konservasi air tanah di Kalimantan Selatan dilakukan dengan tiga program, yaitu: perlindungan dan pelestarian air tanah, pengawetan airtanah dan penghematan air tanah, dan penentuan zona konservasi air tanah. Kebijakan tersebut dilaksanakan dengan melibatkan peranserta masyarakat. Kebijakan konservasi air tanah Provinsi Kalimantan Selatan ditinjau dari Fikih Ekologi merupakan bentuk pengejawantahan dari ajaran kearifan lingkungan yang dapat memperkuat aspek intelektual dan spiritual diantaranya dalam konsep tauhid.

Kata Kunci: kebijakan, konservasi, air tanah, fikih, ekologi.

INTRODUCTION

Environment is a resource which is an asset that can be needed for the welfare of the community as stated in Article 33 paragraph (3) of the Constitution 1945 which states that the earth, water and natural resources contained therein are used for the greatest prosperity of the people.¹ As for the living environment is the space occupied by living things with other non-living things. Living things do not stand alone, but always interact with their environment, in which there is a reciprocal relationship between living things and the environment.² In addition, the environment contains a subjective and objective intrinsic value for the broad interests, including economic interests. Or it can be clearly stated that the

environment has an instrumental value for the sustainability of Indonesia's national development.³ However, the impact of environmental damage on living things is increasing day by day, such as diseases and various kinds of problems. According to Irwanto, the impact of environmental pollution problems can result in the extinction of species, rapid development of pests, environmental balance disruption, reduced fertility, poisoning and disease, biological concentration, as well as the formation of ozone holes and the greenhouse effect.⁴

In principle, there are three main factors that led to the birth of this environmental crisis, namely: First, fundamental-philosophical problems rooted in human error in the way

¹ See Constitution of 1945 Article 33 Paragraph (3).

²Supriadi, (2006). *Hukum Lingkungan di Indonesia, Sebuah Pengantar*, Cet. 1 (Jakarta: Sinar Grafika), p. 4.

³Hyronimus Rhiti, (2005). *Kompleksitas Permasalahan Lingkungan Hidup*, Edisi

Pertama, Cet.1 (Yogyakarta: Universitas Atma Jaya Yogyakarta), p. 7.

⁴Irwanto, (tth). “*Dampak Pencemaran Lingkungan*”, <http://www.irwantoshut.net>. Diakses pada 08 Desember 2020.

humans view themselves, nature, and human position in the whole ecosystem. The pattern of human behavior tends to be consumptive and exploitative towards natural resources.⁵ Second is the problems of global economic politics, such as industrial factories that have caused pollution and environmental damage.⁶ Third is the problem of religious understanding. Among Muslims, there are still groups who adhere to a theocentric understanding of theology. People who have such an understanding do not view this ecological crisis as the result of a humanitarian crisis and a crisis of social morality and human failure to understand natural laws, but merely destiny. Even though God himself told humans to understand the natural and social phenomena, coexist in harmony with nature by maintaining ecosystem balance in it.⁷

Based on the description above, it can be concluded that the cause of natural damage can be caused by two factors, namely due to natural events and human activities. This condition was acknowledged by the Walhi Institute, which said that today's environmental problems are at the

stage of a state of hazard status (water, soil, air, rivers and climate), but the handling of pollution and environmental damage is still carried out using approach “*business as usual*”. Therefore, it is necessary to create a new breakthrough to improve this situation so that in the future it will not face bigger environmental problems,⁸ one of which is environmental conservation.

Conservation is the maintenance and protection of something on a regular basis to prevent damage and destruction by means of preservation and preservation. Conservation of natural resources means the management of natural resources by using them wisely and ensuring the continuity of supplies while maintaining and enhancing the quality of their value and diversity.⁹ Environmental conservation that can be done by humans is through maintenance, fair use, and rehabilitation will have a positive effect on the environment. Ecological fiqh is environmental conservation based on Islamic law,¹⁰ which in this context is the provision in environmental fiqh or ecological fiqh. Even according to Sayyed Hossein Nasr, the various damages

⁵Hikmat Trimenda, (tth). “*Islam dan Penyelamatan Lingkungan*”, <http://www.pikiran-rakyat.com/cetak/2007/022007/16/0902.htm>.

⁶Muhammad Harfin Zuhdi, (2015). “*Fiqh Al-Bi’ab: Tawaran Hukum Islam Dalam Mengatasi Krisis Ekologi?*”, Jurnal AL-‘ADALAH Vol. XII, No. 4, Desember 2015, p. 772.

⁷*Ibid.*, p. 772-773.

⁸[http://www.greener.co/berita/hasil-riset-walhi-perlu-terobosan-sistematisadapi-isu-](http://www.greener.co/berita/hasil-riset-walhi-perlu-terobosan-sistematisadapi-isu-lingkungan)

[lingkungan](#), it is accessed on 07 December 2020.

⁹<https://kbbi.web.id/konservasi>, it is accessed on 08 December 2020.

¹⁰Nursalim. 2013. Agama Sebagai pilar Dasar konservasi Lingkungan.

<http://alislamiyah.uii.ac.id/2013/02/28agama-sebagai-pilar-dasarkonservasi-lingkungan>, it is accessed on 08 December 2020.

caused by science, technology, and the capitalist economy are actually rooted in a spiritual crisis.¹¹ Sayyed Hossein Nasr explained that this damage is the impact of understanding fiqh only limited to worship *mabdhah* such as prayer, fasting, zakat, and hajj. As a result, fiqh related to social phenomena, such as environmental fiqh, is still neglected. In fact, in the context of the current ecological crisis, environmental fiqh is very urgent. Through environmental jurisprudence, it is necessary to instill in the community a belief that throwing a piece of garbage into its place or removing a thorn from the road is worship.¹²

South Kalimantan is one of the provinces in Indonesia which is inhabited by a majority Muslim population, but this does not necessarily mean that the people carry out the recommendations contained in environmental fiqh, so environmental issues are also often the main issue that must be resolved by the South Kalimantan Provincial Government. . One of the efforts made by the Provincial Government of South Kalimantan is to issue the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management which regulates groundwater conservation.

This research is based on two problem formulations, namely: how

is the groundwater conservation policy regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management and how is the Ecological Jurisprudence Perspective on groundwater conservation policies regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management.

The purpose of this study is to provide an overview of groundwater conservation policies regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management and Ecological Jurisprudence Perspectives on groundwater conservation policies regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management. So that this research is expected to enrich the scientific treasures in the field of law and become a reference for political policies and other research in South Kalimantan particularly and in Indonesia generally.

METHOD

This research is a normative juridical research using research methods library or library research. This research is a normative juridical research, which is a juridical research method in a systematic way in

¹¹Sayyed Hossein. 1976. *Man and Nature: The Spiritual Crisis in Modern Man*, London: George Allen & Unwin, p. 14.

¹²Muchsin al-Fikri, (2005). "Fikih Lingkungan dan Kearifan Lokal", [http://www.pikiran-](http://www.pikiran-rakyat.com/cetak/2005/0305/04/renungan_jumat.htm)

[rakyat.com/cetak/2005/0305/04/renungan_jumat.htm](http://www.pikiran-rakyat.com/cetak/2005/0305/04/renungan_jumat.htm), it is accessed on 07 December 2020.

conducting a research.¹³ This kind of research is also commonly referred to as “legal research” or “legal research instruction”.¹⁴

This research uses authoritative legal materials, including Act Number 7 of 2004 on Water Resources, Act Number 32 of 2009 on Environmental Protection and Management, Government Regulation Number 43 of 2008 on Groundwater, Regulation of the Minister of Energy and Mineral Resources Number 31 of 2018 on Guidelines for Determining Groundwater Conservation Zones, and Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management.

The technique of collecting legal materials is by collecting and making an inventory of legal materials related to groundwater conservation policies regulated in Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management seen from the perspective of Ecological Fiqh. Then it is studied based on its relevance to the subject matter under study which is then studied as a unified whole.

The legal material obtained is analyzed using techniques *content analysis* or analyzing the content or subject matter. *Content analysis* shows that analytical methods are

integrative and conceptually tend to be directed at finding, identifying, processing and analyzing legal materials to understand their meaning, significance and relevance. From the analysis of the data, it is followed by drawing conclusions using the scientific method of deductive thinking, namely by thinking that is fundamental to general matters and then drawing specific conclusions.¹⁵

RESULTS AND DISCUSSION

Theory of Policy

The term policy or policy comes from the Greek "polis" which means the state, the city which is then entered into Latin into "politia" which means the state. Finally, it's entered into English as "policies" which means relating to the public problems control or administration of government. In general, the term "policy" is used to designate a person's behavior actors (eg an official, a group or a government institution) or a number of actors in a particular field of activity.¹⁶ Policy according to Harol D. Hasswell and Abraham Kaplan is “a directed program of achieving goals, values, and practices”.¹⁷ While Carl J. Friedrich defines that the policy is a set of actions proposed individual,

¹³Abdul Kadir Muhammad, 2004. *Hukum dan Penelitian Hukum*, Bandung: PT. Citra Aditya Bakti, p. 57.

¹⁴Soerjono Soekanto dan Sri Mamudji, (2006). *Penelitian Hukum Normatif Tinjauan Singkat*, (Jakarta: Rajawali Pers), p. 23.

¹⁵Burhan Bunging, (2007). *Metodologi penelitian kualitatif: Aktualisasi Metodologi ke*

Arab Ragam Varian Kontemporer, (Jakarta: PT. RajaGrafindo Persada), p. 203.

¹⁶Budi Winarno. 2008. *Kebijakan Publik Teori dan Proses*. Yogyakarta: Medpress, p. 16.

¹⁷Harol D. Hasswell dan Abraham Kaplan. 1970. *Power and Society*, New Haven: Yale University Press, p. 15.

group, or government in a particular environment by addressing barriers and opportunities in the implementation of the proposed policy in order to achieve certain goals¹⁸

As for public policy according to Anderson in *Public Policy-Making* is a policy developed by government agencies and officials.¹⁹ Nugroho explained that public policy is based on the efforts of national achievement of a nation can be understood as the activities undertaken to achieve national goals and keterukurannya can be simplified to determine the extent of progress toward achieving the goals have been reached, because every public policy have objectives both goal-oriented and problem-solving oriented or a combination of both.²⁰ Meanwhile, James E. Anderson as quoted by Islamy stated that government policies or policies are policies that are symbolized by government agencies and officials.²¹

Basically, the implementation of a public policy is determined by the content of the policy and the context of the policy or in an implementation study, one will see the dimensions of an organization, namely the

objectives, implementation of tasks and the relationship between the organization and the environment.²² From these implementations can be seen the effectiveness of public policies. Effectiveness is the success in achieving the goals that have been set. According to Gedeian, the effectiveness namely is the greater the extent it which an organization's goals are met or surpassed, the greater its effectiveness.²³ According to Mahmudi defines effectiveness as the relationship between output and goals, the greater the contribution (contribution) of the output to the achievement of goals, the more effective the organization, program or activity.²⁴ In seeing the effectiveness of public policies, a comparison between inputs and outputs is required.

Basically, public policy is carried out with a specific purpose, to achieve certain goals that depart from the problems that have been formulated previously. Evaluation is done because not all public policy programs achieve the desired results. Policy evaluation is intended to see the causes of the failure of a policy or to find out whether the public policy that has been implemented has

¹⁸Carl J. Friedrick. 1963. *Man and His Government*, New York: McGraw Hill, p. 20.

¹⁹James E Anderson. 1978. *Public Policy Making. Second Edition*. Chicago: Holt, Rinehart and Winston, p. 3.

²⁰Ryant Nugroho Dwijowijoto. 2003. *Kebijakan Publik Formulasi, Implementasi dan Evaluasi*. (Jakarta: PT. Elex Media Komputindo), p. 52.

²¹Muh. Irfan Islamy. 1992. *Prinsip-Prinsip Perumusan Kebijakan Negara*. (Jakarta: Bumi Aksara), p. 19.

²²Grindle, dalam Samodra Wibawa, dkk. 1994. *Evaluasi Kebijakan Publik*. Jakarta: PT. Raja Grafindo Persada, p. 22.

²³Arthur G. Gedeian, dkk. 1991. *Organization Theory and Design*. (Jakarta: Universitas Terbuka), p. 61.

²⁴Mahmudi. 2005. *Manajemen Kinerja Sektor Publik*. Yogyakarta: UPP AMP. YKPN), p. 92.

achieved the desired impact. In a shorter language evaluation is an activity that aims to assess the "benefits" of a policy.²⁵ In general, it can be understood that policy evaluation can be regarded as an activity involving the estimation or assessment of a policy which includes substance, implementation and impact. In this case, policy evaluation is seen as a functional activity. This means that policy evaluation is not only carried out at the final stage, but is carried out throughout the policy process.

In addition to these discussions, the important thing in policy theory is the factors that influence public policy. According to George C. Edward III there are several factors that influence policy, among others, namely: communication, resources, attitudes, and bureaucratic structure.²⁶

Ecological Fiqh

In Arabic, ecological fiqh or environmental fiqh was popularized by the term *fiqhul bi`ah*, which consists of two words (compound sentences; *mudhaf* and *mudhaf ilaih*), namely fiqh and al-bi`ah. Fiqh al-bi`ah comes from Arabic which consists of two words (compound sentences; *mudhaf* and *mudhaf ilaih*), namely the words *fiqh* and *al-bi`ah*. In

language "*fiqh*" means *al-'ilmu bis-syai`i* (knowledge of something), *al-fahmu* (understanding). Meanwhile, in terms, fiqh is the science of practical syara' laws taken from *tafsihili* arguments (detailed).²⁷

While the word "*al-bi`ah*" can be interpreted with the environment, namely: the unity of space with all objects, power, circumstances, and living things, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other creatures another life.²⁸ From here, we can give the sense that the fiqh al-Bi`ah or environmental jurisprudence is a set of rules about the behavior of the human ecological set by competent scholars based on the proposition that detailed for the purpose of achieving ecological benefit nuanced life.²⁹

In the framework of compiling this environmental fiqh (*fiqh al-bi`ah*), there are several foundations of thought, namely:

1. Reconstruction of the meaning of caliph. In the Qur'an it is emphasized that being a caliph on this earth is not to do destruction and bloodshed. But to build a life that is peaceful, prosperous, and full of justice. Thus, humans who do damage on this earth automatically tarnish human

²⁵Budi Winarno. (2012). *Kebijakan Publik: Teori, Proses, dan Studi Kasus*. (Yogyakarta: CAPS), p. 228.

²⁶George C. Edward III, dalam Subarsono. AG. (2000). *Analisis Kebijakan Publik*. (Yogyakarta: Pustaka Pelajar), p. 90.

²⁷Ali Yafie, (2006). *Merintis Fiqh lingkungan Hidup*, (Jakarta: UFUK Press), p. 22.

²⁸Bahri Ghazali, (1996). *Lingkungan Hidup dalam Pemahaman Islam*, (Jakarta: Pedoman Ilmu Jaya), p. 25.

²⁹Asyhari Abta, (2006). *Fiqh Lingkungan*, (Jakarta: Gema Insani Press), p.76-78.

attributes as caliphs.³⁰ It is caused by nature although was created for the benefit of humans, it is not allowed to use it arbitrarily. Thus, the destruction of nature is a form of denial of the verses (majesty) of Allah, and will be kept away from His mercy (Surah al-A'raf/7: 56).

2. Ecology as a teaching doctrine. As explained by Yusuf Qardhawi in *Ri'ayah al-Bi'ah fii Syari'ah al-Islam*, that preserving the environment is the same as maintaining the five basic goals of Islam (maqashid al-syari'ah). Because maintaining the environment is the same as maqashid al shari'ah. In the rules of Usul Fiqh it is stated, "*maa laa yatimmu al-wajib illa bibi fawuba wajibun*" (Something that leads to obligation, then something is obligatory).³¹
3. Environmentalists are ecological infidel. Destroying the environment is the same as denying (disbeliever) the greatness of Allah as contained in Verse 27 of Surah Shaad, which means: "*And We did not create the heavens and the earth and what is between them without wisdom, that is the opinion of the disbelievers, So woe to the disbelievers for they will go to hell.*" (Surah Shaad: 27). The above verse tells us that understanding nature in vain is the view of the

disbelievers. What's more, he has done damage to nature.³²

The foundation of environmental ethics, as described by Ahmad Syadali, namely:³³

1. *Ta`abbud*, namely that of protecting the environment is an implementation of obedience to God. Because protecting the environment is part of the human mandate as caliph. Even in the science of jurisprudence, maintaining environmental sustainability and balance has a mandatory legal status because the command is clear both in the Qur'an and the words of the Prophet Muhammad. According to Ali Yafie, environmental problems in the science of fiqh are included in the *jinayat* (criminal) chapter so that if there are people who do damage to the environment, they can be subject to sanctions or penalties.
2. *Ta`aqquli*, which is the command to protect the environment logically and with reason that has a very understandable purpose. The natural environment has been designed in such a way by God with balance and harmony and interrelation with each other. If there is an imbalance or damage done by humans, then it will cause a disaster that will not only befall humans themselves but all

³⁰M. Quraish Shihab, (1996). *Membumikan al-Qur'an sebagai Fungsi dan Peran Wahyu dalam Kehidupan masyarakat*, (Bandung: Mizan), p. 295.

³¹Yusuf al-Qardhawi, (2001). *Ri'ayah al-Bi'ah fii Syari'ah al-Islam*, (Kairo: Dar al-Syuruq), p. 256.

³²M. Quraish Shihab, (1996). *Op.cit.*, p. 297.

³³Ahmad Syadali, (1992). *Al-Qur'an dan Pemeliharaan Lingkungan Hidup*, (Yogyakarta: Lembaga Studi Filsafat Islam (LESFI)), p.172.

creatures that live and live in that place will perish.

3. *Takhalluq*, namely protecting the environment must be a character, character and habit of everyone. Because maintaining this environment becomes very easy and very beautiful when it comes from habits or habits daily lives of every human being that the balance and the preservation of nature and will occur by itself without any penalty and other causes with certain .

The Qur'an is a "*budan li al-nas*" (guidance for humans), and not a "*budan li Allah*" (guidance for Allah). Of course, it is not only a guide in the metaphysical-eschatological sense, but also concerns the practical problems of human life in today's natural world, including the basic standards of how humans support the universe and the surrounding environment. The balance created by Allah SWT in an environment will continue, and will only be disturbed if an extraordinary situation occurs.

The Qur'an has explained that most natural disasters on this planet are caused by irresponsible human activities and there are many more verses of the Qur'an that explain the environment. This is as contained in Surah Ar Ruum verse 41 which means: "*And seek in what Allah has bestowed upon you (happiness) in the hereafter, and do not forget your share of worldly (pleasures) and do good (to others) as Allah have done good to you, and do not do mischief on the earth. Verily, Allah does*

not like those who do mischief".

The mandate given to humans as caliphs on earth should be realized as deep as the act of maintaining, managing, developing and making the best use of natural resources.³⁴

Groundwater conservation policy regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management

Basically the purpose of groundwater conservation cannot be separated from groundwater management where this policy aims to harmonize the balance of utilization in the framework of quantity and quality with sharply growing demand for water. Application of management of groundwater should be carried out prior to the reduction in the quantity and quality of groundwater as a result of taking groundwater and groundwater contamination by humans. So that groundwater management should not only be an effort to manage aquifer resources groundwater but must also be an effort to manage the people who use them.³⁵

Groundwater conservation activities are part of integrated water resource management as regulated by Act Number 7 of 2004 on Water Resources, Act Number 17 of 2019 on Water Resources, Act Number 32 of 2009 on Protection and Environmental Management, which

³⁴M. Quraish Shihab, (1996). *Op.cit.*, p. 294.

³⁵Heru Hendrayana dan Doni Prakasa Eka Putra. *Op.cit.*, p. 4.

is then detailed in Government Regulation Number 43 of 2008 on Groundwater, which is technically more detailed in the Regulation of the Minister of Energy and Mineral Resources Number 31 of 2018 on Guidelines for Determining Groundwater Conservation Zones.

In its implementation, groundwater conservation activities still require more detailed guidelines so that these conservation activities can run optimally. Therefore, the existence of a regional regulation is very necessary to complement the regulation of groundwater management, which in this case also includes groundwater conservation. The implementation of the Groundwater Conservation Policy is carried out by the South Kalimantan Provincial Government as regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, technically at least focused on groundwater basins, including recharge areas and groundwater discharge areas, where the implementation of groundwater conservation policies it covers 3 (three), namely: 1) Protection and preservation of ground water; 2) Preservation of groundwater and saving ground water; and 3) Determination of groundwater conservation zones.

As for the implementation of groundwater management has been set Bylaw South Kalimantan, South Kalimantan Provincial Government in formulating the implementing regulation and in the application of soil conservation policy in the field should be in accordance with the principles of groundwater management, namely:³⁶

1. The principle of sustainability. This principle of sustainability means that groundwater management is carried out by preserving the function of groundwater in a sustainable manner.³⁷
2. The principle of balance. That is the principle that requires a balance between social functions, environmental functions, and economic functions.³⁸
3. The principle of public benefit. Public benefit here is intended so that groundwater management is carried out, in this case groundwater conservation, in order to provide the maximum benefit for the public interest effectively and efficiently.³⁹
4. The principle of social function and economic value. This principle is applied to groundwater conservation policies so that groundwater can be used primarily for public interest rather than individual interests.

³⁶Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 2.

³⁷Explanation of Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 2.

³⁸*Ibid.*

³⁹*Ibid.*

5. The principle of cohesiveness and harmony. The principle of integration implies that groundwater management is carried out by preserving the function of groundwater in a sustainable manner. While the principle of integration and harmony is a principle that requires groundwater management to be carried out in an integrated manner in realizing harmony for various interests by taking into account the dynamic nature of groundwater.⁴⁰
6. The principle of justice. This principle is intended that groundwater management is carried out evenly to all levels of society in the territory of the homeland so that every citizen has the right to have the same opportunity to play a role and enjoy the real results.⁴¹
7. The principle of independence. The purpose of the principle of independence is that groundwater management is carried out by taking into account the capabilities and advantages of local resources.⁴²
8. Principles of transparency and accountability. Groundwater conservation as part of groundwater management carried out by the South Kalimantan provincial government must be based on this principle so that it

can be implemented in an open and accountable manner.

The implementation of groundwater conservation carried out by the Provincial Government of South Kalimantan must also pay attention to the Principle of Balance between Environmental Conservation and Groundwater Utilization.⁴³ The purpose of the principle of balance between environmental conservation and utilization of ground water is the existence of proportional treatment for conservation activities and utilization of water resources.⁴⁴

The formulation of the ground water management principles above is carried out in accordance with the provisions of Article 2 of Act Number 7 of 2004 on Water Resources, which reads as follows: *“Water resources are managed based on the principles of sustainability, balance, public benefit, integration and harmony. , justice, independence, as well as transparency and accountability.”*

The concept of groundwater conservation as regulated in Act Number 7 of 2004 on Water Resources is still being used even though a new Act on water resources has been issued again, namely Act Number 17 of 2019 on Water Resources. As long as there is no revocation provision in the previous Law, then legal norms that do not

⁴⁰*Ibid.*

⁴¹*Ibid.*

⁴²*Ibid.*

⁴³Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 2 letter b.

⁴⁴Explanation of Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 3 letter b.

conflict with the new Act in the old Act can still be used.

Groundwater conservation policy is basically an action to protect groundwater with natural protection strategy (*natural protection*) and preventive action (*preventive actions*) to retain the potential and the allocation of groundwater resources.⁴⁵ Therefore, considering the importance of planning for the implementation of groundwater conservation, the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management has emphasized that policies regarding groundwater conservation must be implemented by planning beforehand. This is as outlined in Article 6 Paragraph (1), namely: *"In the context of managing groundwater, the Regional Government shall prepare a plan as a guideline and direction for conservation, utilization and control of the destructive power of water in accordance with the provisions of the legislation."*

With planning as a guide and direction in groundwater conservation, groundwater conservation policies are in line with the concept of policy theory, this is as stated by Harol D. Hasswell and Abraham Kaplan that the policy is a program to achieve goals, values, and guided practice.⁴⁶ As part of groundwater conservation activities and also as an effort to facilitate the implementation of groundwater

conservation policies, the Provincial Government of South Kalimantan must establish a groundwater conservation zone as regulated in Article 11 Paragraph (1). What is meant by Groundwater Conservation Zone is a zone or area/area for groundwater management with certain ground water conditions, namely safe, vulnerable, critical, and damaged to ensure the sustainability of its use wisely and ensure the continuity of its quantity and quality.⁴⁷

The determination of the ground water conservation zone is in the context of protecting ground water as affirmed by Article 11 Paragraph (2) that the groundwater conservation zone is a groundwater protection zone which includes groundwater recharge areas. Even in the next paragraph, namely Paragraph (3), it is clearly determined that the groundwater conservation zone that has been determined by the Provincial Government of South Kalimantan cannot be utilized for groundwater. However, so that groundwater can provide benefits to the community, this regulation has also determined zones for utilization and utilization of groundwater.

This is also in accordance with government programs related to the management of water resources as regulated in Act Number 17 of 2019 on Water Resources, namely in

⁴⁵Heru Hendrayana dan Doni Prakasa Eka Putra. *Op.cit.*, p. 7.

⁴⁶Harol D. Hasswell dan Abraham Kaplan. *Loc.cit.*

⁴⁷ Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 1 Number 17.

article 11 letter e which reads:⁴⁸ *"Determining Groundwater Conservation Zones in Groundwater Basins in the Territory transnational rivers, trans-provincial river basins, and national strategic river basins."* Reflecting on the rule of Act, the above-mentioned Act is a newer Act, so it must be a reference in ground water conservation policies. As far as the researcher can see, the groundwater conservation policy regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management is in accordance with the provisions of the legislation.

Even in this case, Article 14 of Law Number 17 of 2019 concerning Water Resources has given authority to the Provincial Government in managing Water Resources, namely establishing groundwater conservation zones in groundwater basins in river areas across districts/cities. In more detail, the policy of soil water conservation set out in Chapter IV of Conservation in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management namely Article 15 and Article 16, as follows:

Article 15 Paragraph (1), namely: *"The governor held groundwater conservation to maintain the continuity of the carrying capacity, capacity, and function of groundwater, in accordance with the groundwater management plan."*⁴⁹ As for

the meaning of the word carrying capacity of groundwater in paragraph (1) is the ability of groundwater to support the lives of humans and other living creatures. Meanwhile, the meaning of groundwater capacity is the ability of groundwater to absorb substances, energy, and/or other components which enter or are incorporated into it.⁵⁰

Paragraph (2) explains that the implementation of groundwater conservation is aimed at protecting and preserving ground water, preserving ground water, managing groundwater quality, and controlling ground water pollution. Then in paragraph (3) it is explained that the protection and preservation of ground water is carried out through maintaining the continuity of the function of groundwater recharge and groundwater recharge areas, controlling the use of ground water, artificial filling of groundwater through groundwater infiltration wells and/or groundwater recharge wells, regulating ground water facilities and infrastructure, protection of groundwater in relation to development activities and land use in groundwater basins, control of land use in groundwater recharge areas, and forest and land rehabilitation in groundwater recharge areas by vegetative and/or civil engineering approaches, social, economic, and cultural.

The protection and preservation of groundwater above is basically

⁴⁸Act Number 17 of 2019 On Water Resource, Article 11 Letter e.

⁴⁹Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 1.

⁵⁰Explanation of Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 15 Paragraph (1).

aimed at protecting and preserving the groundwater and its environment from damage and/or disturbance caused by natural forces or human actions. Meanwhile, controlling the use of groundwater can be done in the form of regulating the use of groundwater in some groundwater basins through licensing, or it can also be in the form of prohibiting the use of groundwater in some groundwater basins.⁵¹

Then the notion of vegetative implementation is a protection and preservation effort carried out by or through planting suitable trees or plants in groundwater recharge areas that are able to increase the capacity of the groundwater recharge function. Furthermore, the purpose of the technical civil method is an effort to protect and preserve that is carried out through technical engineering, such as the construction of environmentally friendly buildings that do not change the function of groundwater recharge in groundwater recharge areas (such as houses on stilts, the use of materials capable of permeating water, and others). Meanwhile, the social, cultural and economic approach is intended that the implementation of efforts to protect and preserve groundwater with these various efforts must be carried out by taking into account the social, cultural and economic conditions of the local community.⁵²

Preservation of ground water is carried out through storage of rainwater during the rainy season to be used when needed, saving ground water by using it efficiently and effectively; and/or controlling the use of ground water. Preservation of groundwater is intended to maintain the presence and availability of ground water or groundwater quantity, in accordance with its functions and benefits.⁵³ The management of groundwater quality and control of groundwater pollution is carried out with the aim of maintaining and restoring groundwater quality in groundwater basins.⁵⁴ To prevent the entry of groundwater pollution, various methods can be used, such as by not placing the final disposal site in a porous area and treating wastewater before it is sent to final disposal.⁵⁵ This Article also emphasizes that the implementation of groundwater conservation is carried out by the Regional Apparatus office in charge of groundwater management affairs.

Furthermore, Article 16, in Paragraph (1) it is emphasized that the implementation of groundwater conservation is carried out in the effort to maintain the groundwater basin and the environment outside the groundwater basin, as well as the operation and maintenance of infrastructure in the groundwater basin and outside the groundwater basin. Then Paragraph (2) explains that the maintenance of groundwater

⁵¹*Ibid.*, Article 15 Paragraph (3).

⁵²*Ibid.*, Article 15 Paragraph (3).

⁵³*Ibid.*, Article 15 Paragraph (4).

⁵⁴*Ibid.*, Article 15 Paragraph (5).

⁵⁵*Ibid.*, Article 15 Paragraph (6).

basins and the environment outside the groundwater basins is carried out through activities to prevent and/or repair damage to aquifers and groundwater. The operation and maintenance is carried out through infrastructure operation activities, consisting of regulation, allocation, and provision of ground water. Then maintenance of infrastructure consisting of activities to prevent and/or repair damage to aquifers and groundwater that causes a decrease in the function of groundwater infrastructure.⁵⁶

The purpose of utilizing ground water in Article 16 also means that groundwater conservation can be carried out not based on a groundwater management plan in the case of groundwater use in areas outside the groundwater basin and based on the results of the study it is possible to use groundwater.⁵⁷ Groundwater conservation policies must also be monitored and evaluated in their implementation. Article 45 emphasizes that monitoring and evaluation of groundwater management in the Provinces is carried out by the Governor. The monitoring is carried out at least 1 (one) time in 1 (one) year, by means of Observation, Supervision, Recording, Examination of reports; and/or in-person review.⁵⁸

The evaluation of the implementation of groundwater conservation policies which are part of groundwater management is carried out for every activity of implementing groundwater management or groundwater conservation activities where the results of the evaluation are used as the basis for reviewing the management plan or the implementation of groundwater management.⁵⁹ The implementation of groundwater conservation is also carried out with the support of a groundwater management information system that is integrated with the provincial water resources management information system.⁶⁰ In addition, in the implementation of groundwater conservation, the Regional Government must also provide facilitation to the community as regulated in Article 51 of the Regional Regulation Number 5 of 2018 on Groundwater Management, namely in Paragraph (1), then also in Paragraph (2) letter b. and c that facilities for groundwater conservation are in the form of construction of reservoirs for groundwater conservation and improvement of groundwater conservation efforts.

This Regional Regulation on Groundwater Management also

⁵⁶Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 16.

⁵⁷See Explanation of Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 16.

⁵⁸Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, Article 46.

⁵⁹See *Ibid.*, Article 47.

⁶⁰See *Ibid.*, Article 49 Paragraph (1) dan Paragraph (2) Letter b.

regulates community participation, namely in Article 54 which reads:⁶¹

- (1) *The community can participate in the implementation of groundwater management.*
- (2) *Community participation can be implemented with the following provisions:*
 - a. *To maintain, maintain the quality of the environment in the catchment area and groundwater release;*
 - b. *Supervising the use of ground water;*
 - c. *To provide suggestions, opinions, proposals, objections, complaints; and/or*
 - d. *To provide information and/or reports.*

Not only to the participation of the community, the Provincial Regulation on Groundwater Management also regulates the obligations of the Provincial Government of South Kalimantan to conduct guidance, supervision and control in groundwater management including the implementation of groundwater conservation policies, as referred to in Article 55 as follows:

- (1) *The Governor implements guidance, supervision, and control to ensure the implementation of integrated and sustainable groundwater management.*
- (2) *The guidance as referred to in paragraph (1) is carried out in the form of:*
 - a. *preparation of technical guidelines;*
 - b. *socialization, counseling and technical guidance on groundwater management;*
 - c. *education and training; and*
 - d. *other forms as needed.*

(3) *Supervision and control as referred to in paragraph (1) shall be carried out in the form of:*

- a. *assessment, supervision and evaluation of the implementation of groundwater management;*
- and
- b. *monitoring groundwater extraction.*

In principle, groundwater conservation policy is to maintain and preserve groundwater quality, so this is one of the most important aspects for the existence of groundwater. Therefore, this groundwater conservation policy is also strengthened by the existence of various prohibitions for every person and/or business entity regulated in this Provincial Regulation, one of which is in Article 58 letter a, namely activities that cause damage to ground water and its infrastructure, interfere with efforts to preserve ground water, and/or result in groundwater contamination.

Based on the description above, we can see that the groundwater conservation policy contained in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management has been formulated in detail by the Provincial Government of South Kalimantan so that it is important for the effectiveness and effectiveness of water conservation policy regulations. This land has also been contained in the Provincial Regulation.

From the data obtained and compiled, the groundwater

⁶¹*Ibid.*, Article 54.

conservation policy can clearly be understood as a program for the protection and preservation of groundwater, both from its existence, growth and sustainability. Based on Government Regulation Number 43 of 2008 on Groundwater, that groundwater conservation is what actions/steps we must take in managing groundwater so that its utilization can be optimally, namely utilization that does not cause an impact on the groundwater itself and the surrounding environment and can be sustainable. With this sustainability, groundwater will be utilized and even utilized by future generations. Thus, the groundwater conservation policy is aimed at maintaining the continuity of the existence, carrying capacity, and function of groundwater, and is implemented based on a groundwater management plan.

As for the groundwater management plan above, it must be prepared in a coordinated manner with the water resources management plan based on the river area, this is because the South Kalimantan area has many watersheds. With this river-based concept, of course, river-based groundwater conservation planning can be the basis for preparing groundwater management programs. However, this can only be implemented in areas close to rivers, which is clear that basically water conservation policies cannot be

separated from surface water conservation. The existence of surface water must greatly affect the condition and quality of ground water, so that the management of surface water is also one that must be considered in groundwater policy.

The groundwater conservation policy which has been regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management, at the level of implementing the policy has been carried out by the Energy and Mineral Resources Provincial Office of South Kalimantan. Where in its organizational structure, groundwater conservation issues are specifically the responsibility of the Groundwater Sector and implemented by the Groundwater Conservation Section.

The Groundwater Departement of the Provincial office of Energy and Mineral Resources of South Kalimantan has the main task of coordinating, fostering and controlling groundwater exploitation, determining groundwater conservation zoning and determining the value of groundwater acquisition.⁶²

The job description for the Groundwater Departement is as follows:⁶³

1. Providing services for groundwater conservation zone maps in groundwater basins

⁶²Pemerintah Provinsi Kalimantan Selatan. (2017). *Renstra Tahun 2016-2021 Dinas Energi*

dan Sumber Daya Mineral Provinsi Kalimantan Selatan, p. 13.

⁶³*Ibid.*

within the Province (other than inter-provincial and cross-country groundwater basins);

2. Providing technical recommendation services for the exploitation and use of groundwater within the province;
3. Determination of the acquisition value of ground water in the province;
3. Determination of the acquisition value of ground water in the province; and
4. Conducting a review of policy materials and technical management of the groundwater sector.

To carry out the above tasks, the Groundwater Departement also has the following functions:⁶⁴

1. Management of data and information on groundwater potential in the province;
2. Making regional regulations on groundwater in the province;
3. Determination of zones for utilization and conservation of groundwater in groundwater basins within the province;
4. Mapping of groundwater potential in groundwater basins within the province;
5. Management of groundwater quality and quantity data in the context of controlling ground water pollution;
6. Controlling the destructive power of ground water;
7. Supervision and control of groundwater;

8. Reviewing/providing technical recommendations for exploitation and use of ground water;
9. Calculation and determination of the Basic Water Price;
10. To provide guidance to the exploitation/use of ground water.

To assist the Groundwater Sector, the Groundwater Conservation Section in carrying out the groundwater conservation policies that have been regulated in this Provincial Regulation has the following main tasks:⁶⁵

1. Implementation of review of technical policy materials for groundwater conservation;
2. Implementation of the preparation of technical policy materials for groundwater conservation management; dan
3. Implementation of groundwater conservation management.

The duties of the Groundwater Conservation Section in detail are as follows:⁶⁶

1. Carry out the preparation of the work program of the Groundwater Conservation Section;
2. Carry out the preparation of Minimum Service Standards (MSP) and Standard Operating Procedures (SOP) for Groundwater Conservation Section;
3. Carry out the preparation of technical policy materials for the

⁶⁴*Ibid.*, p. 13-14.

⁶⁵*Ibid.*, p. 16.

⁶⁶*Ibid.*, p. 16-17.

- Groundwater Conservation Section;
4. Carry out mapping of groundwater potential;
 5. Carry out the preparation of the ground water balance;
 6. Carry out the preparation of ground water demand projections;
 7. Carry out the preparation and evaluation of groundwater conservation zones;
 8. Carry out the preparation of the basic price of ground water;
 9. Implement the groundwater recharge area management program;
 10. Implementing an artificial groundwater recharge management program;
 11. Implement programs to prevent, control and restore ground water pollution;
 12. Carry out reporting and evaluation of activities of the Groundwater Conservation Section;
 13. Carry out the preparation of data and information on the Groundwater Conservation Section;
 14. Carry out coordination and cooperation with related work units; and
 15. Carry out other duties in accordance with the main duties and functions.

In implementing groundwater conservation policies, the Department of Energy and Mineral

Resources of South Kalimantan Province must also cooperate and synergize with related agencies or work units, in this case the Environmental Service Provincial Office of South Kalimantan, where this service is also related to quality maintenance environment which is also related to groundwater quality.

The structure of Provincial Office of Environmental Service that handles this is the Environmental Quality Recovery Sub-Sector which has the task of preparing materials and carrying out environmental quality restoration efforts as well as technical guidance cooperation and evaluation of environmental quality restoration activities. One of the main tasks is to prepare materials, compile technical instructions and carry out efforts to restore environmental quality, rehabilitate and conserve the environment.⁶⁷ The involvement of Provincial Office of Environmental Service cannot be separated from several important aspects that must be considered in groundwater planning and management, namely that there will be efforts to restore groundwater quality. It's caused that generally groundwater conservation strategies can be divided into three broad categories; natural conservation, remedial action and preventive action. In terms of determining the choice of conservation strategy, there is no specific formulation that can guarantee that the chosen

⁶⁷Pemerintah Provinsi Kalimantan Selatan. (2017). *Renstra Dinas Lingkungan Hidup Provinsi Kalsel 2016-2021*, p. 23.

conservation strategy will be appropriate and successful for an area or groundwater basin area,⁶⁸ so that the formulation must be in accordance with the natural conditions of each region.

The existence of groundwater is considered important and even groundwater conservation must be carried out in the hope that this groundwater resource can be used sustainably. There are several urgencies for groundwater as a resource, including:⁶⁹

1. Groundwater is a very valuable and renewable resource;
2. Groundwater is threatened with degradation both in quantity and quality due to improper use and management; and
3. Groundwater must be managed carefully if it is intended not only for the present generation but also for future generations.

So the policy and efforts to conserve groundwater must be implemented as a whole in the groundwater basin area in South Kalimantan, including recharge areas and groundwater discharge areas and must be one of the considerations in planning for groundwater utilization and spatial planning.

From the description above, it is illustrated that the concept of groundwater conservation policy and how the policy is implemented is in line with how a policy concept is formulated and implemented. In this

case, researchers have found that groundwater conservation policy when viewed from policy theory have also covered several aspects of the policy implications, namely:⁷⁰

1. Policies always have certain goals which are goal-oriented actions. The policy orientation of groundwater conservation as outlined in Provincial Regulation Number 5 of 2018 is clearly the goal of national natural resource management.
2. Policies contain actions or patterns of action of government officials. The groundwater conservation policy of South Kalimantan Province is carried out with various programs and activities, there are at least three activities, namely the protection and preservation of groundwater, groundwater preservation and groundwater conservation, and determination of groundwater conservation zones.
3. The policy is what the government or agency actually does. This groundwater conservation policy of South Kalimantan Province, as determined, is implemented by the Provincial Office of Energy and Mineral Resources in collaboration with the Environment Provincial Office.
4. Government policies are positive. The purpose of formulating groundwater conservation policies is to maintain, protect and

⁶⁸Heru Hendrayana dan Doni Prakasa Eka Putra. *Op.cit.*, p. 10.

⁶⁹*Ibid.*, p. 9-10.

⁷⁰Muh. Irfan Islamy. *Loc.cit.*

conserve groundwater, so that the existence and function of groundwater can provide benefits to the community.

5. Policies, at least in a positive sense, are always based on coercive laws and regulations. The implementation of groundwater conservation departs in Provincial Regulation Number 5 of 2018 on groundwater management, where this regulation also regulates prohibitions and even sanctions. This also illustrates the seriousness of the Region to regulate and manage groundwater. This regulation is not made arbitrarily, because there are many legal bases, especially laws and regulations which are the foundation, legal umbrella as well as guidelines in the formulation of groundwater conservation policies for the South Kalimantan Province.

The groundwater conservation policy in the provisions of groundwater management that has been programmed by the Provincial Government of South Kalimantan is one form of protecting and preserving the environment. Maintaining and preserving the environment when viewed from the context of ecological fiqh is one form of implementing obedience to God. Humans created by Allah SWT certainly attach titles, duties and mandates to the caliphs on earth, and one of the duties of the caliphate is to protect, protect and preserve the environment. In ecological fiqh,

maintaining environmental sustainability and balance has a legal status because the instructions are clear both in the Qur'an and the words of the Prophet Muhammad.

The Perspective of Ecological Fiqh on groundwater conservation policy regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management

Islam is a teaching as well as a life guide that was revealed by Allah SWT to the Prophet Muhammad SAW so that humans are able to regulate human relations with Allah SWT, regulates itself, regulates human relations and regulates relations with nature. In the Qur'an it is emphasized that as caliphs on this earth basically humans have the task of utilizing, managing, and maintaining nature or the environment. Allah SWT has created the universe for the benefit and welfare of all His creatures, especially humans. So, to the existence of this nature, Islam not only teaches to take advantage of natural resources, but also teaches the rules of the game in their use where sustainable mutual welfare is the desired overall result. One of the Prophet Muhammad 'sunnah explained that every citizen has the right to benefit from a common natural resource to meet the needs of his life as long as it does

not violate, violate, and hinder the same rights of others.⁷¹

The use of scarce natural resources must still receive good supervision and protection. Preserving the environment is part of the noble character that must be applied in the midst of human life. This is to maintain the continuity of life in the world and keep away the damage and disasters that occur due to the actions of some humans. Even the Prophet has ordered his people to protect nature and not to cause harm to it.⁷²

In relation to environmental management, Islam views that natural resources are a great gift that can not only be utilized by current and future generations. This is where it is important to study environmental problems from various aspects. One aspect that can be used as a basis for looking at environmental problems is the religious aspect. The aspect of religion is important, considering that religion cannot be separated from human life. Islam as a religion originating from Allah's revelation provides some important instructions regarding various natural events, including in this case natural disasters and environmental problems. Allah created this universe neatly and systematically and humans

are given the responsibility to maintain and prosper it. The three basic concepts of Islam (*aqidah*, *shari'ah*, morals) provide clear guidance on environmental stewardship.⁷³

Religion Islam provides various teachings, directives and codes of conducts on the environment, which generally can be understood in several obligations to be performed by humans on the environment as follows:⁷⁴

1. Building a Love for the Environment;
2. Planting and Caring for Trees;
3. Managing Natural Resources;
4. Notting damage the environment; and
5. Getting used to being environmentally friendly.

Then in the study of Islamic law, inhabiting the earth and managing life on earth requires three legal contents, namely: the law of the pillars of *shari'ah*, the law of the pillars of *fiqh*, and *As-siyasah* namely *at-tadbir* (regulation).⁷⁵

The arrangements or *at-tadbir* above can also be aimed at environmental conservation activities. The scope of environmental conservation generally includes soil conservation, watershed conservation, coastal and marine area conservation, forest

⁷¹Ulin Niam Masruri. (2014). "Pelestarian Lingkungan dalam Perspektif Sunnah". Jurnal at-Taqaddum, Volume 6, Nomor 2, Nopember 2014, p. 411.

⁷²*Ibid.*

⁷³*Ibid.*, p. 412.

⁷⁴Hendra Septa. (2018). "Fikih Ekologi: Konservasi Lingkungan Dan Upaya

Pencegahan Kerusakannya", Sumber: <http://hendrasepta22jr.blogspot.com/2018/04/fikih-ekologi-konservasi-lingkungan-dan.html?m=0>, diakses pada tanggal 21 Maret 2021.

⁷⁵*Ibid.*

conservation and conservation of ecosystem types. Thus, the regulation above is also related to groundwater management, one of which is groundwater conservation. And related to this discussion, this is also attributed to the groundwater conservation policy regulated in Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management.

Groundwater conservation in the perspective of Islamic teachings, namely in this case ecological fiqh is a policy that is in accordance with the goals and wisdom of the revelation of Islamic teachings. Ecological fiqh is Islamic provisions that are sourced from detailed postulates about human behavior towards their environment in order to realize benefit and prevent damage. Basically, ecological fiqh was born as a concept of Islamic teachings that seeks to make people realize that environmental problems cannot be separated from their responsibilities and are the mandate they carry. Even with regard to this discussion, Quraish Shihab said that the mandate given to humans as caliphs on earth should be realized as deep as the act of maintaining, managing, developing and making the best use of natural resources.⁷⁶ Therefore, ecological fiqh is now a necessity that cannot be negotiable. So the concept of ecological fiqh or environmental fiqh which is formulated by these Muslim intellectuals also reflects the

dynamics of fiqh related to changes in context and situations.

As we know in the previous discussion that groundwater conservation policy is to maintain and preserve groundwater quality, so this is a very important aspect for the existence of groundwater. From here we can also see that the policy when viewed from Islamic teachings regarding groundwater conservation is a form of embodiment of the teachings of environmental wisdom that can strengthen intellectual and spiritual aspects including the concept of monotheism, caliph in the earth, gratitude, *ibsan*, mandate and the grace of the universe. *Tanbihid* is a matrix or reference for all human actions towards God and nature, because it radiates the aspect of caliph in the earth which is responsible for managing and utilizing natural resources in a good and balanced manner.

The relationship between humans and the environment or relationships with each other is not a relationship between the conqueror and the conquered or between God and his servant, but a relationship of togetherness in submission to Allah SWT. Because the human ability to manage is not a result of the provisions it has, but the result of a gift from Allah SWT.

Thus, it can be said that the groundwater conservation policy regulated in Provincial Regulation Number 5 of 2018 on Groundwater Management is carried out as

⁷⁶M.Quraish Shihab. (1996). *Loc.cit.*

gratitude for the Creator and a form of compassion or the grace of the universe for the natural environment. The operation and implementation of monotheism, shukr, the function of human caliphate, and the attitude of compassion are manifestations of the mandate and attitude of *ibsan*.

Given the urgency of the groundwater conservation policy, the researchers again remind what has been explained by Yusuf Qardhawi in *Ri'ayah al-Bi'ah fî Syari'ah al-Islam*, which preserving the environment is the same as maintaining the five basic goals of Islam (*maqashid al-shari'ah*). Because maintaining the environment, it is same as *maqashid al-syari'ah*. In the rules of Usul Fiqh it is stated, *maa la yatimmu al-wajib illa bihi fawuha wajibun* (Something that leads to obligation, then something is obligatory).⁷⁷ Thus, the implementing groundwater conservation policy is an effort to carry out *maqashid syar'iyyah* that must be maintained in every human activity whatsoever, either individually or jointly.

In fact, if we look at the essence of the concept and purpose of groundwater conservation policy which is one of environmental conservation, we find that it has existed since the time of the Prophet Muhammad where he has carried out the practice of conserving natural resources, and the definition of conservation has actually been

conveyed in many books. The Qur'an, which was revealed by Allah SWT for guidance or guidance for human life on earth. There are many verses that explain conservation, which means that humans must use their minds in doing things, they must not be wasteful, they cannot be greedy, they must not be excessive, especially for matters relating to the lives of many people (the people).

Even related to groundwater conservation, where the Provincial Government first establishes groundwater conservation zones, we can analogize this as *Harim*. *Harim* is a land or area that is intentionally protected to preserve water sources. *Harim* are zones where development is prohibited or very limited to prevent damage or decrease in benefits and natural resources.⁷⁸ Usually *Harim* is formed along with the presence of fields and rice fields, and the area of this area is different from the two. In a village, the *harim* can be used to graze livestock or look for firewood. An important element in the *Harim* is the existence of an area that is still original and becomes public property. The government can administer or legalize the area for common use.

CONCLUSION

The groundwater conservation policy of South Kalimantan Province is carried out with various programs

⁷⁷Yusuf al-Qardhawi. *Loc.cit.*

⁷⁸Ibid.

and activities. There are at least three activities, namely: protection and preservation of groundwater, preservation of groundwater and saving groundwater, and determination of groundwater conservation zones. The efforts made are the maintenance program for groundwater basins and the environment outside the groundwater basin and the operation and maintenance of infrastructure in the groundwater basin and outside the groundwater basin. All groundwater conservation programs are implemented by implementing the principle of balance between environmental conservation and groundwater utilization. The policy is implemented by the Public Works and Spatial Planning Provincial Office of South Kalimantan and the Provincial Environmental Service Provincial Office of South Kalimantan. In addition, the Provincial Government of South Kalimantan also involves community participation in the groundwater conservation policy.

The policy of groundwater conservation regulated in the Provincial Regulation of South Kalimantan Number 5 of 2018 on Groundwater Management is one form of maintaining and managing the environment as an implementation of obedience to God. Humans created by Allah SWT certainly attach titles, duties and mandates to the caliphs on earth, and one of the duties of the caliphate is to protect, protect and protect the environment. Thus it is clear that the

South Kalimantan Provincial Government's groundwater conservation policy in terms of Ecological Fiqh is a form of embodiment of environmental knowledge that can strengthen intellectual and spiritual aspects including the concepts of monotheism, the caliph in earth, gratitude, *ibsan*, mandate and the grace of the universe.

Suggestion

Based on the conclusions above, it is hoped that the Provincial Government of South Kalimantan can implement groundwater conservation policies in an optimal manner and more intensely involve the surrounding community who live in the groundwater conservation zone.

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