

# Proceeding Fiqih Biah

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**IMPLEMENTATION OF *IJTIHAD MAQASIDI* IN RELATIONSHIP (*QIRA'AH MUBADALAH*) WITH ECOFEMINSME AS CONFIRMATION OF *FIQH AL-BI'AH***

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*Abstract: In various problems regarding ecological distortion, women based on facts and data appear to have more concern in protecting the environment. This fact is caused by various factors, sometimes personal perspectives on the environment, men tend to be less collective in dealing with ecological crises, whereas maintaining the environment is a commandment of God to humans without distinguishing the opposite sex (Q.S.Al-A'raf 56-58). Some researchers revealed that the reason was influenced by biological factors, as well as historical and cultural factors. The God's orders, to mankind to care for the environment (hifdz al-bi'ah) are not only for one particular sex, although in reality women have more roles and preserve the environment. From the data of the Ministry of Environment and Forestry (KLHK), it is realized that the role of women to mobilize a community is very large. Supported by 2017 Central Bureau of Statistics (BPS) data, there are around 69.6 million women in Indonesia supporting various sectors including the economy and environmental preservation. Ecofemenism is a women's movement that cares about environmental welfare. This movement was allegedly the point of women's jihad against the ecological crisis. in the rise of industry and the development of patriarchal science, this theory developed to counteract inhumane actions. In Islamic literature this theory is in line with the concept of maqasid al-shari'ah, namely hifdz al bi'ah. Between women and the environment like two currencies that cannot be separated. Both have the attitude of mubadalah (loneliness) that perfects one another.*

*Keywords: Ijtihad maqasidi, women, hifdz al-bi'ah, ecofeminism*

## A. INTRODUCTION

Industrial development which is carried out on a large scale by the Indonesian government requires more awareness and care from various community groups, this fact is difficult to avoid because entering the 21st century people face a series of environmental problems that have a very significant impact on the resilience of the flora and fauna layers commonly known as biosphere.<sup>1</sup> This will be a big threat to living things because in a short time it will become an incurable disease. Saskia Sassen, a Columbia University professor in her research noted that around 24% of land degradation continued to roll from 1981 to the end of 2003,<sup>2</sup> this condition is supported by global warming which attacks the surface of the earth, also supported by the accumulation of waste due to massive industrial projects.

According to data from the Central Statistics Agency (BPS) in 2017, there are around 69.6 million women of productive age who are very concerned about the environment and are productive in a community working to make a movement to protect the environment. Realizing this, the Ministry of Environment and Forestry (KLHK) designed social activities with the theme of preserving the environment specifically for women.<sup>3</sup> Proven in many environmental cases, women's track record is unavoidable which has been proven to have more sensitivity to protect the environment. Puji Retno Hadiningtyas in his research explained the resistance of women in combating environmental injustice and ecological issues in Papua, women have a very important role in maintaining the stability of the survival of the Papuan people. The struggle of Papuan women in freeing themselves from violence, especially originating from the structure and culture of society, natural conditions, and customs has given rise to resistance to women's positions. In Papua, the patriarchal system is still very thick, where women are positioned as workers, processors of foodstuffs, and harvest sellers play the role of both producer and consumer.<sup>4</sup>

The attitude of isolation between women and the environment described above is a form of implementation of the *qira'ah mubadalah* because it has manifested the message of the Qur'an to become a caliph on earth whose job is to care for and preserve nature and its contents.

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<sup>1</sup> Thalhan and Ahmad Mufid, *Fiqh Ekologi Menjaga Bumi Memahami Makna Kitab Suci*, Yogyakarta: Total Media, 2008, xi.

<sup>2</sup> Saskia Sassen, *Expulsion: Brutality and complexity in the global economy*, Cambridge: The Belknap Press Of Harvard University Press-Cambridge, 2014, 153.

<sup>3</sup> <http://ppid.menlhk.go.id/cgi-sys/suspendedpage.cgi>

<sup>4</sup> Puji Retno Hadiningtyas, Resistensi Perempuan Papua di Lingkungannya dalam Roman Isinga Karya Dorothea Rosa Herliyani, *Jurnal Aksara*, Vol 28 No.2 2016, 4.

Coupled with the aim of creating the earth and its contents are nothing but a means of worshipping God so that humans easily realize the role of their servants, this argument is in line with the cosmology of the Qur'an Taha verses 53-54, that the relationship between humans and nature cannot be separated because between the two will be realized mutual perfection.<sup>5</sup> The word caliph itself in this phrase is general, there are no takhsis aimed at men and women, Muslims and non-Muslims, but are general that applies to all creatures.

But the reality is, protecting the environment (*hifdz al-bi'ah*) experiences a distortion of meaning, women from patriarchal culture must ultimately accept labeling as a creature that - should be more concerned about - environmental preservation.<sup>6</sup> Why is that? because women have more responsibility to look after their reproductive organs as well as maintaining overall organ health. The case of mining and the construction of a cement factory in Kendeng, Central Java illustrates how women must occupy the first line to refuse the operation of the project, as well as women in the Dani tribe who must be at the forefront to avoid the consequences of the Freeport company.

From this fact, the writer wants to portray the attitude of women (*mubadalah*) and environment, both of which have a reciprocal attitude to realize the perfection as intended by shari'a. the writer will use the *ijtihad maqasidi* approach as an intermediary for achieving balance and benefit between God as the rule maker and humans as the executor. The benefit as referred to by Jasser Auda is the construction of the old model *maqasid* which uses the nature of protection and preservation (maintaining and preserving) to the attitude of development and rights (development and fulfillment of rights). which aims so that humans as law enforcers are not wrong in capturing shari'ah messages.

## **B. IJTIHAD MAQASIDI AS APPROACH**

*Maqasid al-shari'ah* is an approach that prioritizes the principles of humanity and benefit. From the sentence form *maqasid al-shari'ah* consists of the word *maqasid* which means purpose and al-sharia which means the commands and prohibitions of God related to human behavior.<sup>7</sup> In the context of Islamic law, Al-Syatibi is called the first scholar of the originator of this theory, through his classification of human benefit can be realized if the five basic elements of human life can be realized and maintained, namely religion or belief, soul, reason, descent, descent and

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<sup>5</sup> Q.S. Thaha (20:53-54)

<sup>6</sup>Jasser Auda, *Maqasid al-Shari'ah as Philosophy of Islamic Law a System Approach*, Herndon: International Institute of Islamic Thought, 2008, 5.

<sup>7</sup> Abd al-Majid An-Najjar, *Maqasid al-Syrai'ah Bi 'Ab'ad al-Syari'ah*, Tunis: Dar al-Gharb al-Islami, 2012, 15.

property, this classification then in summary on the scale of priority *maslahat* include *daruriyat*, *hajiyyat*, and *tahsiniiyat*.<sup>8</sup> In the period after al-Syatibi, *maqasid al-shariah* as a tool to explore the law (*ijtihad maqasidi*) experienced a very rapid increase, increasingly complex problems triggered scholars of Islamic law to reinterpret and develop methodologies. The name al-Raysuni appears that sees every *amaliyah* law in human life always related to the creed, so that the *maqasid al-sharia* becomes a tool to lead to the wisdom behind the words of god, faith, purpose and benefit.

Slightly different from al-Raysuni, Ibn Ashur defines the *maqasid al-sharia* as wisdom that is maintained by shari'a in every behavior, generally applies to all types of legal purposes, and the legal meaning which is generally not considered as a whole but is maintained in the form of protection other.<sup>9</sup> This is what Jasser Auda called development and right which is the development and fulfillment of rights which then creates a form of protection to maintain environmental balance and ward off the ecological crisis in human life called *hifdz al-bi'ah* or protection of the environment. the word *bi'ah* in that word is explicitly not listed directly in the Koran and al-Sunnah, but implicitly the components contained in the word *bi'ah* (environment) include animals, plants, metals, the universe and geographical area.<sup>10</sup>

During the renewal of contemporary methodology, the name Jasser Auda is often mentioned in addressing millennial problems. Auda's main reason for developing this methodology is for the realization of humanity, benefit and fulfillment of rights, both for humans and animals, plants and objects created in the universe, therefore making *maqasid al-syaria'h* an approach that is a choice right. But according to him, to be able to answer the increasingly complex contemporary problems one must develop a methodology. Therefore, Auda developed the concept of *maqasid al-sharia* from the old individualistic theory to a more comprehensive method.<sup>11</sup>

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<sup>8</sup> Al-Syatibi, *al-Muwāfaqāt Fī Usūl al-sharī'ah*, Beirut: Dar al-Kutub al-'Ilmiyah, t.t, 228, al-Qardhawi, *al-Siyāsah al-Shar'īyyah fī Dhaw' Nusus al-Shariah wa Maqasidiha*, Kairo: Maktabah Wahbah, 1998, 272 .

<sup>9</sup> Tahir Ibn Asyur, *Maqasid al-Syariah al-Islamiyah*, Tunisia: *Dar Sukhun Li al Nashr wa al Tawzi'*, 2007, 49.

<sup>10</sup> Muhammad Khalil 'Itani , *al- Mu'jam al-Mufassal li Mawadi' al-Qur'an al-Munazzal*, Beirut: Dar al-Ma'rifat, 2000, Usamah Kamil Abu Shaqra , *Dalil al-Mawdu'at fi al-'Ayat al-Qur'an al-Karim*. Beirut: Mu'assasah al-Rayyan, 2001.

<sup>11</sup> Ahmad Musonnif, *Maqasid al-Syari'ah dalam konteks Fikih Nusantara*, the article delivered in Launching Centre Of Fiqh Nusantara IAIN Tulungagung 2018. Compare with Muhammad Faisol, "Pendekatan Sistem Jasser Auda Terhadap Hukum Islam: Ke Arah Fiqh Post-Postmodernisme", Kalam: *Jurnal Studi Agama dan Pemikiran Islam*, Volume VI, Nomor 1, Juni 2012.

As a form of appreciation for Auda in developing Islamic legal methodology is through the application of *maqasid al-shari'ah* through several steps. Firstly, Auda distinguishes the degree of fiqh as a legal product from a fixed syariah, therefore fiqh must not be silent as a problem that is always changing and in every law there is a hidden wisdom. Second, the nature of the sensitivity possessed by law makes the law partially incomprehensible, get to the root of legal philosophy. Third, the nature of openness of Islamic law contains a divine dimension and morality so that the maqasid (goal) of God as shari'a and human beings as *mukallaf* (perpetrators of law) are reached. the four characteristics of humanity and interconnectedness with all elements of Islamic law that are not enough are only classified in *dzaruriyat*, *hajiyyat*, and *tahsiniyat*, because they will only reduce the urgency of each. Fifth, contemporary Fiqh whose products do not stand alone but have interconnection and are multi-dimensional.<sup>12</sup>

Auda also developed the mechanism of *Maqasid al-Sharia* to a broader understanding or development not only stop at the effort for preservation or preservation. As an example of maqasid development, we will at least explain it in the table below:

Num	Maqasid type	Development	Explanation
1	<i>Hifdz al-din</i>	<i>hurriyyah al-I'tiqad</i> religious freedom	The meaning of preserving religion does not stop at carrying out religious orders, because textualist understanding of religion will only lead to radical and inclusive attitudes
2	<i>Hifdz al-Nasl</i>	<i>hifdz al-Ushrah</i> (look after the family)	Maintaining <i>nasab</i> not only in the context of guarding from adultery, but more broadly to the meaning of protecting the family starting from the control of education, association and even food that is consumed daily.
3	<i>Hifdz al-Nafs</i>	<i>hifdz al-karamah al-Insaniyyah</i> atau <i>hifdz al-Huquq al-Insaniyyah</i> (protect human rights).	Safeguarding lives is not only limited to saving lives, but more broadly protecting the rights of every citizen / community
4	<i>Hifdz al-Aql</i>	Development of	Keeping the mind is not limited to

<sup>12</sup> Muhamamad Lutfi Hakim, "Pergeseran Paradigma Maqasid Shariah dari Klasik sampai Kontemporer", *Jurnal al-Manahij*, Vol X, No 1, Juni 2016, compare with Jasser Auda, *Maqāsid al-Ahkām al-Shar'iyyah wa 'Ilaluhā*, [http://www.jasserauda.net/modules/Research\\_Articles/pdf/article1A.pdf](http://www.jasserauda.net/modules/Research_Articles/pdf/article1A.pdf). Compare with Muhammad Faisol, "Pendekatan Sistem Jasser Auda Terhadap Hukum Islam: Ke Arah Fiqh Post-Postmodernisme", *Kalam: Jurnal Studi Agama dan Pemikiran Islam*, Volume VI, Nomor 1, Juni 2012.

		Science, Technology and science.	avoiding alcohol so that the mind / brain is not disturbed, but it enables the mind to think in a wider range in order to understand science
5	<i>Hifdz al-mal</i>	Financial and economic management	The understanding of safeguarding assets does not stop in the effort to give alms but extends to maintaining financial management and economic stability.
6	<i>Hifdz al-Bi'ah</i>	<i>Hifdz al-'Alam</i>	Protecting the environment does not only pay attention to the surrounding environment in a narrow range, but preserves all elements in the universe such as the sea, forests, plants, mountains, springs, rivers, animal air, metals and the atmosphere which aims to maintain a healthy body, and maintain tools special reproduction for women.
7		<i>Hifdz al-mujtama'</i>	maintain community stability
8		<i>Hifdz al-dawlah</i>	maintain state stability

One of the human needs is to maintain environmental cleanliness, nature, maintain beauty, maintain health and protect from damage. This human nature eventually gave birth to creative ideas so that gave birth to art and diversity of works.<sup>13</sup> In the teachings of Islam, the holy book of the Koran is one proof of God's masterpieces that are extraordinary, full of meaning and beauty of the language, this fact is of course addressed to the Arabs who at the time of the revealed of the holy books many loved poetry and art prose, although in general the Koran is intended for all Muslims in the world. Another reason is focused on God's love for beauty, because with high beauty and art it will bring wisdom and wisdom.<sup>14</sup>

<sup>13</sup> Siti Aesijah, "Latar Belakang Penciptaan Seni: Background of Creative Art", *Jurnal Al-Manahij* Vol. 1 No. 2/September – Desember 2000.

<sup>14</sup> Kamali Nader and Javdan Moosa "The Relationship between Art and Psychology", *Journal of Life Science and Biomedicine*. 2 (4), 2012

### C.INTERJECTION OF *IJTIHAD MAQASIDI* WITH ECOFEMINISM: AN IMPLEMENTATION OF *QIRA'AH MUBADALAH*

The beauty that is manifested in the universe must actually be encouraged by caring for the environment. There is a very close relationship between humans and the environment. God as the One who loves beauty so directs mankind to always carry out environmental surveillance in order to complete human life and at the same time perfect servitude to Him. Therefore, the creation of the whole sky and its contents is both a means of worship and at the same time as a tool for civilization and *muhasabah*, in line with this argument, Allah explains in Q.S. Thaha verses 53-56:

الَّذِي جَعَلَ لَكُمُ الْأَرْضَ مَهْدًا وَسَوَّلَ لَكُمْ فِيهَا سُبُلًا وَأَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَخْرَجْنَا بِهِ أَزْوَاجًا مِنْ نَبَاتٍ شَتَّى  
كُلُوا وَارْعَوْا أَنْعَامَكُمْ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِأُولِي النُّهَى  
وَلَقَدْ أَنْزَلْنَا آيَاتِنَا كُلَّهَا فَكَذَّبَ وَأَبَى

“ he is the god who made the earth for you a stretch, and he has created a way, raining down from the sky. So we created you various kinds of plants, fruits. Eat all of you, and feed your animals, all of these contain bunches of Allah's mercy to those who think”

The above verse implies the meaning that God wants the universe and its contents to be used by humans to carry out survival, therefore it needs to be balanced with the preservation, preservation and good care of the environment, so that a common benefit arises. *Maslahah* in the terminology of *Ushul Fiqh* is understood as everything that can manifest goodness and avoid the consciousness and interpretation in human life.<sup>15</sup> That is, all of the stipulated provisions have goals (*maqasid*), not only containing the main idea, but also a moral idea that is hidden in it so that it can be understood what the true meaning of God aspires.

In understanding the problem, the author is interested in classifying *maslahat* with the terms *qath'iy* and *zanny* or in other languages *tsawabith mutaghayyirat*. Although in understanding the meaning of both there are *khilafiyah* among scholars. Not in line with Masdar Farid Mas'udi who interpreted *Qath'iy* as a principle, clearer fundamental, and *zanny* for the elaboration of these principles, KH Husein Muhammad mentioned Masdar Farid's offer in terms of *kulliyat* and *juz'iyat* namely the content of universal meaning and particular.<sup>16</sup>

Starting from these two opinions, the writer implements *qath'i* and *zanny* in understanding *maslahah* as an attempt to explain the idea of *qira'ah mubadalah*, in this context is interpreting

<sup>15</sup> Abu Hamid Al-Gazali, *Al-Mustasfa*, Beirut: Dar al-Fikr, t.th. 286.

<sup>16</sup> Faqihuddin Abdul Kodir, *Qira'ah Mubadalah : Tafsir Progresif untuk Keadilan Gender dalam Islam*, Yogyakarta: IRCiSoD, 2019, 145.



the idea of *hifdz al-bi'ah* which is one of the main ideas of *ijthad maqasidi*. So that the terminology of *maslahah qath'iy*, *maslahah zanny*, and vice versa appear the terms *mafsadah qath'iy* and *mafsadah zanny*. *Qat'iy maslahah* is a positive value that absolutely does not change for any legal reason, *zann al- maslahah* is the dilemmatic benefit between positive and negative impacts. While the meaning of the negation, *mafsadah qath'iy* is damage whose impact is not negotiable, whereas *mafsadah zanny* is damage whose impact is due to inequality or injustice, actually *mafsadah zanny* is not much different from the *zannah* problem, only the *zann* problem dominates its *maslahah* value whereas *mafsadah zanny* is more dominant.

In this paper, the sensitivity of women in protecting the environment due to the ecological crisis is an example of the implementation of *maslahah*. This view is by Vandhana Shiva, a sociologist from India called *ecofemism*.<sup>17</sup> *Ecofeminism* is an effort to build knowledge that connects women and the environment. More specifically, *ecofemism* emerged as a theory that discussed the relationship of women to the ecological crisis, due to industrial development and the outbreak of waste, thereby disrupting human life from productivity, growth and necessities of life. Development projects are a core reason that will destroy women's health and women's productivity, because projects in the name of development have usurped the management and control of land, water and forests from women's hands.<sup>18</sup>

There is interconnection between *maslahah* and *ecofeminism*. *Ecofeminism* supports the activities of women to jointly fight patriarchy, capitalist attitudes and understandings that reduce women's freedom. According to Shiva, women must be saved from development productivity which causes *mafsadah*, because the impact of the ecological crisis is very fatal. Women with nature are like parents and children, women protect nature because they want to look after their children and family, so women treat the natural environment very feminine. Women will consider the consequences of littering if they do not distinguish between organic and non-organic, women do not dare to poison the land or the sea because they do not want their children and families poisoned. Women do not smoke because they are very concerned about the respiratory health of children and families. All this happens because women are individuals who are more often in contact with nature, every day in contact with water to boil, to bathe

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<sup>17</sup> Vandhana Shiva, dan M. Mies. *Ecofeminisme: Perspektif Gerakan Perempuan dan Lingkungan*. Terjemahan Kelik Ismunanto dan Lilik. Yogyakarta: IRE Press, 35.

<sup>18</sup> Puji Retno Hadiningtyas, Resistensi Perempuan Papua di Lingkungannya dalam Roman Isinga Karya Dorothea Rosa Herliyani, *Jurnal Aksara*, Vol 28 No.2 2016, 145.

themselves and their families, contact with cooking spices all of which must be clean and free of drugs so that families are free from the exploitation of the universe. Therefore ecofeminism is a form of benefit that must be upheld.

The relationship created between women and the environment is not just material, but intimate interconnection between the earth and its society,<sup>19</sup> this is also another reason why women have more sensitivity to protect the environment than men.<sup>20</sup> Men who smoke affected women, Yu Patmi, Kendeng women along with other female peers are considered irresponsible because they leave the family due to their actions cementing the legs, even though these women are supporting the family's needs. From this fact, the relationship between *masalah* and ecofeminism lies in the massive movement of women who simultaneously maintain the preservation of nature in order to avoid interpretations in the form of extractive exploitation of nature. Women no longer think about individual interests, but think about the fate of the people around them, because the impact received due to the ecological crisis is not a normal problem and therefore women no longer pay attention to *al-maslahah al-Khasah* but pay attention to *al-maslahah al-'amah*. In other languages women prioritize the public interest rather than personal interests.

Due to the basic reasons above, the obligation of women to protect the environment and nature is a *qath'iy* issue, absolute and non-negotiable. Because for women destroying nature is the same as destroying children and families, poisoning nature is the same as killing children and their families, ironically, women will not be convinced of their lives if the environment is reduced by waste and the like. While industrial development is carried out on a massive scale is *masalah zanny*, because on one side there are those who need and receive benefits, but on the other choice there are those who receive *mafsadah*. This dilemmatic situation positions development carried out by the State or private companies does not mean that it does not carry *masalah* values, only that strategies are needed so that industrial development is not radically and patriarchally realized, so that what is called justice. While waste pollution, tree deforestation, littering, spraying medicines on plants is *mafsadah qath'iy*, namely damage that cannot be forgiven and absolutely harms many parties. the whole community will receive negative impacts without classification of sex, age and even social status.

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<sup>19</sup> Shiva, *Ecofeminisme*, 154.

<sup>20</sup> Shiva, *Ecofeminisme*, 54.

#### D. PRINCIPLES OF HUMAN INTERACTION WITH *HIFDZ AL-BI'AH*

The principle of protecting the environment (*hifdz al-bi'ah*) is a moral idea that is not only related to physical or material needs, but more than that, the principle of protecting the environment is proof of my loyalty to his god. In surah ad-Dzariyat verse 56, God says the word of *khalaqtu al jinn wa al ins illa liya'budun*, the first thing that is the main purpose of God for the creation of creature is to see the level of loyalty of the creature to his god. In the same language God explained in Surah al-An 'Am verse 165:

وَهُوَ الَّذِي جَعَلَكُمْ خَلَائِفَ الْأَرْضِ وَرَفَعَ بَعْضَكُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِيُبْلُوَكُمْ فِي مَا آتَاكُمْ ۗ إِنَّ رَبَّكَ سَرِيعُ الْعِقَابِ وَإِنَّهُ لَغَفُورٌ رَحِيمٌ

*“Dan Dialah yang menjadikan kamu penguasa-penguasa di bumi dan Dia meninggikan sebagian kamu atas sebagian yang lain dengan beberapa derajat, untuk mengujimu tentang apa yang diberikan-Nya kepadamu. (And it is He Who has made you rulers of the earth, and He has exalted some of you with others, with some degree, to test you of what He has given you)”*

In understanding the above verse, Imam Ibn Kathir interprets the *khalifah fi al-ardh* in the verse as a person who takes steps to prosperity and success for the generations to come, not to do harm to the next generation. Because in principle, Islam does not allow leaving a weak generation. That is, efforts to prosper not only stop at one time, but continue continuously from another generation of generation.<sup>21</sup> Therefore, humans are required to have a major role in terms of caring for the environment. The natural environment needs attention for the future prosperity of the next generation. Because by paying attention to nature will create a balance between creatures on earth. Protecting the environment is also evidence of expressions of thankfulness to God for the creation that has been given, so that humans get the mandate to do justice to nature. Because human beings really need plants, nature and everything in order to carry out life, and vice versa, humans as caliphs must be willing to protect the natural surroundings so that they are intertwined between caring for one another and benefiting one another, and the title of *khalifah al ard* is the most important principle for humans in protecting the environment.

Another principle that underlies the importance of humans protecting the environment is how much man utilizes the universe that God created. In surah al-Jasyiah verse 56 Allah explains that the purpose of creating the universe is to bring about benefit, not to cause harm. even the entire

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<sup>21</sup> Ibn Kathir, *Tafsir al-Quran al-'Azim*. Beirut: al- Maktabah al-'Asriyya, 1996, 185.

creation of God on earth has benefits without being in vain.<sup>22</sup> Another principle that underlies the importance of protecting the environment is the individual's responsibility to other individuals, all of whom have rights and obligations that have been organized regularly as *sunnatullah*. Nature has the right to get respect from humans, because humans will also use the universe, the ability given to humans and make humans a creature that is more important than other creatures is the principle affirmed by God to humans to have a good and human personality.

In the micro sphere, Islam through methodological channels has explained the problem of the principle of protecting the environment, for example in the case of industrial development, water retention from reservoirs. When the cause of the above cases is carried out procedurally (*muwafiq al-'adah*) and still within reasonable limits, then such conditions can still be tolerated. However, if it results in sustainable adherence and the use of industry is not accompanied by improper and unprocedural use (*mukhalif al-'adah*), then that must be followed up on.<sup>23</sup> This kind of law applies if it is not related to legal and binding regulations. But the government has set a ban on environmental destruction, such as disposing of waste not in a procedural way, then the government is absolutely authorized to provide action or determine compensation for any environmental damage caused. This principle is in line with the government's main obligation to do good for the people and to anticipate any negative excesses that are likely to emerge (*fi'lu al-ashlah wa rafu al-dlarar*).

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<sup>22</sup> Qahtan al-Duri , *Safwat al-Ahkam min Nayl al-Awtar wa Subul al-Salam*. Amman: Dar al-Furqan., 1999, 458

<sup>23</sup> Ahsin Sakho', *Fiqh al Bi'ah* , Jakarta : Conservation International Indonesia, 2006, 45.

## E. CONCLUSION

*Maqasid sharia* in entering the contemporary era must be implemented in the form of development, no longer maintaining or preserving, in the language of Jasser Auda protection prevention to development and right, then *hifd al-bi'ah* is no longer understood as protecting the environment but developing into *hifdz al-'alam*.

In this paper, the idea of *qira'ah mubadalah* which has an interconnectivity with the theory of ecofeminism is interpreting the idea of *hifdz al-bi'ah* using the terminology of *qath'iy* and *zanny*. So that the terminology of the *qath'iy maslahah*, the *maslahah*, and vice versa, the term *mafsadah qath'iy* and *mafsadah zanny* appear. The obligation of women to protect the environment and nature is the *qath'iy al-maslahah*, because it is absolute and non-negotiable. While industrial development is carried out on a massive scale is the issue of *zanny*, because on one side there are those who need and receive benefits, but on the other choice there are those who receive *mafsadah*, and letting the ecological crisis with the pollution of the surrounding nature is included in the *zanny al-mafsadah* category.

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