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## **Green Fatwas in *Bahtsul Masā'il*: Nahdlatul Ulama's Response to the Discourse of Environmental Crisis in Indonesia**

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### **Abstract:**

This article aims to discuss *Nahdlatul Ulama'* (NU)'s responses to the environmental crisis in Indonesia. It portrays social context beyond the birth of NU' fatwas concerning with ecological issues and the follow-up steps to build eco-literacy among *nahdliyyin*. The results of the study indicate that the emergence of ecological or green fatwas was based on the concern of NU's Executive Boards who are aware of the increasing scale of the Indonesian environmental crisis. The idea to respond to this environmental crisis has appeared since the 29th NU Congress in Cipasung, Tasikmalaya, West Java. NU contributed by issuing ecological fatwas through *Bahtsul Masa'il* forum from the *fiqh* perspective as a guide for *nahdliyyin* to manage the environment in a friendly and sustainable manner. As for the examples of follow-up steps on those fatwa were through a program called *Bank Sampah Nusantara* (Archipelago Garbage Bank) with its campaign for *Nusantara Bebas Sampah* (Zero Waste Archipelago) under the management of NU's *Lembaga Penanggulangan Bencana dan Perubahan Iklim* (Agency for Disaster Management and Climate Change).

### **Keywords:**

Green-Fatwas; Bahtsūl Masā'il; Environmental Crisis

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**Abstrak:**

Artikel ini bertujuan mendiskusikan respon Nahdlatul Ulama (NU) terhadap krisis lingkungan yang terjadi di Indonesia. Ia menggambarkan konteks sosial di balik lahirnya fatwa-fatwa bernuansa ekologis *ala* NU dan tindak lanjutnya dalam upaya membangun masyarakat *nahdliyyin* yang memiliki semangat sadar lingkungan (*eco-literacy*). Hasil kajian menunjukkan bahwa lahirnya fatwa-fatwa ekologis atau *green fatwa* tersebut bermula dari keprihatinan Pengurus Besar NU perihal fenomena krisis lingkungan di Indonesia yang semakin memprihatinkan. Gagasan untuk merespon fenomena krisis lingkungan ini telah muncul sejak Mukhtamar NU ke-29 di Cipasung, Tasikmalaya, Jawa Barat. Adapun kontribusi NU dalam konteks ini adalah mengeluarkan fatwa-fatwa bernuansa ekologis dalam perspektif fiqh melalui lembaga *Bahtsul Masail*-nya sebagai panduan agar para *nahdliyyin* berinteraksi dengan lingkungan secara ramah dan berkelanjutan. Adapun contoh langkah tindak lanjut dari berbagai fatwa tersebut adalah program bertajuk “Bank Sampah Nusantara” dengan kampanye “Nusantara Bebas Sampah” di bawah komando Lembaga Penanggulangan Bencana dan Perubahan Iklim (LPBI) milik NU.

**Kata Kunci:**

Fatwa-Hijau; *Bahtsul Masail*; Krisis Lingkungan

**Introduction**

The current environmental crisis has become a global issue. Global warming, for instance, is of concern to the world community and its threats to the environment are getting public attention more and more. This makes very much sense as both climate change and global warming have in many ways negatively impacted the environment and humanity.<sup>1</sup> Awareness and action in responding to this phenomenon are inevitably needed for Muslim communities that have environmentally friendly doctrines. Islam itself offers a holistic view of

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<sup>1</sup> Nik Nazli Nik Ahmad and Dewan Mahboob Hossain, “Climate Change and Global Warming Discourses and Disclosures in the Corporate Annual Reports: A Study on the Malaysian Companies,” 2015, 246–53.

creation while the Qur'an clearly sets out the obligation to preserve the environment.<sup>2</sup>

This research discusses green fatwas in Nahdlatul Ulama *Bahtsul Masail* forum. It focuses on fatwas with ecological and pro-environmental spirits that had been decided in the *Bahtsul Masail* forums at the 32nd Nahdlatul Ulama Congress in Makassar and the 33rd Nahdlatul Ulama Congress in Jombang. Additionally, it also examines ecological fatwas after the congress in Jombang such as a fatwa regarding the lobster seed export policy which had been a controversial issue then catches the attention of the public quite recently.<sup>3</sup>

Nahdlatul Ulama is the largest Islamic organization in Indonesia. It has a strategic position in discussing religious discourse, including those related to environmental issues. Moreover, this phenomenon has become a very popular public discussion theme both on a national and global scale.<sup>4</sup> *Nahdliyin* as a big part of Indonesian society certainly has an important role in environmental preservation efforts as their moral responsibility in carrying out socio-religious and socio-ecological life. Awareness of the importance to care for the environment and to protect it through religious values, therefore, finds its relevance.<sup>5</sup>

Nahdlatul Ulama as the subject of this study has been becoming the focus of many critical and in-depth studies. In a broad classification,

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<sup>2</sup> Norah bin Hamad, "Foundations for Sustainable Development: Harmonizing Islam, Nature and Law" (Pace University, n.d.), <http://digitalcommons.pace.edu/lawdissertations/20/>. Accessed 20 Oktober 2020.

<sup>3</sup> <https://www.kompas.com/Tren/Read/2020/07/25/110500065/pro-Kontra-Kebijakan-Ekspor-Benih-Lobster-Di-Era-Edhy-Prabowo-?Page=all>, n.d. Accessed on 25 September 2020.

<sup>4</sup> Irfan Ilyas Vania Zulfa, Milson Max, Iskar Hukum, "Isu-Isu Kritis Lingkungan dan Perspektif Global," *Journal Green Growth dan Manajemen Lingkungan* 5, no. 1 July (2016): 30.

<sup>5</sup> Thiyas Tono Taufiq, "Lingkungan dan Kearifan Lokal Masyarakat Muslim-Kristen Pesisir Banyutowo," *Living Islam* I, no. 2 Nopember (2018): 4.

there are several typologies of scientific studies of Nahdlatul Ulama: *First* is research about Nahdlatul Ulama from the aspect of its central figures, such as KH. Hasyim Asy'ari, Gus Dur, Gus Mus, KH. Sahal Mahfudz and other figures.<sup>6</sup> *Second* is research related to the political attitudes of Nahdlatul Ulama<sup>7</sup>. *Third* is research related to Nahdlatul Ulama ideology.<sup>8</sup> *Fourth* is research on the legal *ijtihad* of Nahdlatul Ulama.

Specifically, research on Nahdlatul Ulama *ijtihad* products as formulated in *Bahtsul Masail* forum has been conducted by several researchers. To mention some, there found research by Ahmad Zahro<sup>9</sup>, Lakpesdam Jakarta,<sup>10</sup> Rifyal Ka'bah<sup>11</sup>, Pujiono,<sup>12</sup> Ahmad<sup>13</sup>, and others. In further examination, it is found that studies on *Bahtsul Masail* fatwa

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<sup>6</sup> Beberapa penelitian tentang tokoh-tokoh NU di antaranya adalah: Sutrisno, *Nalar Fiqh Gus Mus* (Yogyakarta: Pustaka Pelajar, 2010) Jamal Ma'mus Asmuni, *Mengembangkan Fikih Sosial KH. MA. Sahal Mahfudh* (Jakarta: Quanta, 2015), Greg Barton, *Biografi Abdurrahman Wahid* Edisi Baru (Yogyakarta: IRCiSOD, 2019) dan karya lainnya.

<sup>7</sup> Ridwan, *Paradigma Politik NU* (Yogyakarta: Pustaka Pelajar, 2004) Greg Fealy, *Ijtihad Politik Ulama: Sejarah NU 1952-1967* (Yogyakarta: LKiS, 2003), Asep Saiful Muhtadi, *Komunikasi Politik Nahdlatul Ulama: Pergulatan Politik Radikal dan Akomodatif* (Jakarta: LP3ES, 2008).

<sup>8</sup> Khamami Zada and A. Fawaid Sjadzali, ed., *Nahdlatul Ulama: Dinamika Ideologi Dan Politik Kebangsaan* (Jakarta: Kompas Media Nusantara, 2010).

<sup>9</sup> Ahmad Zahro, "Lajnah Bahtsul Masail NU 1926-1999: Telaah Kritis terhadap Keputusan Hukum Fiqh" (UIN Sunan Kalijaga, 2001).

<sup>10</sup> Lakpesdam Jakarta, *Kritik Nalar Fiqih NU: Tranformasi Paradigma Bahtsul Masail* (Jakarta: Lakpesdam, 2002).

<sup>11</sup> Rifyal Ka'bah, "Keputusan Lajnah Tarjih Muhammadiyah dan Lajnah Bahtsul Masail NU Sebagai Keputusan Ijtihad Damai di Indonesia" (Jakarta: Universitas Indonesia, 1998).

<sup>12</sup> Pujiono, "Perilaku Ekonomi Warga NU Kabupaten Pasuruan dalam Perspektif Hukum Islam; Studi Penerapan Putusan Bahtsul Masail" (IAIN Sunan Ampel, 2010).

<sup>13</sup> Ahmad, "Implementasi Ijtihad Tahqiq Al-Manat dalam Fatwa Lajnah Bahtsul Masail Nahdhatul Ulama dan Majelis Tarjih dan Tajdid Muhammadiyah (Studi Analisis Komparatif Fatwa Ekonomi)" (UIN Alauddin Makasar, 2017).

products were carried out by researchers with their own respective characteristics from methodological studies to thematic legal products.

Among those studies, I choose to specifically portray LBM-NU (Lembaga *Bahtsul Masa'il*-Nahdlatul Ulama' or Nahdlatul Ulama' *Bahtsul Masa'il* Forum) fatwa products on ecological concerns. I focus on examining the fatwa through socio-historical background analysis and its implications for *nahdliyin's* attitude toward the environment. The fatwa itself is a response to global and national phenomena regarding the increasingly worrisome environmental crisis which requires people to be much more aware of the importance of being environmentally friendly. Moreover, it also aims to avoid natural disasters due to human ignorance of the environment which also becomes a current major problem in Indonesia.<sup>14</sup>

The significance of this study is obvious from two aspects. *First*, LBM-NU has the authority to discuss legal issues on public matters including *mahdhah* worship issues as well as socio-ecological issues, particularly the one that threatens the sustainability of the earth's environmental ecosystem. *Second*, LBM-NU fatwa products serve as a life guide for the Muslim community, especially *nahdliyin*, in interacting with the surrounding environment. Therefore, the fatwa plays an important role in building awareness and concern among the Muslim community towards the environment. Based on it, this study is expected to actualize legal thinking through a study of Nahdlatul Ulama *Bahtsul Masa'il* fatwa products on a socio-ecological issue that has been becoming global and national discourse.

## Method

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<sup>14</sup> Walhi, "Tinjauan Lingkungan Hidup 2020: Menabur Investasi Menuai Krisis Multidimensi" (Jakarta, 2010), 12, [https://www.walhi.or.id/wp-content/uploads/Laporan Tahunan/Outlook 2020.pdf](https://www.walhi.or.id/wp-content/uploads/Laporan_Tahunan/Outlook_2020.pdf).

This is a library research using historical and philosophical approaches. The historical approach aims to describe socio-historical context beyond the birth of ecological fatwas, while the philosophical approach intends to analyze the fatwas on the basis of *maqāsid syarī'ah*.<sup>15</sup>

The data of this study consists of fatwa resulted from 32nd Nahdlatul Ulama Congress in Makassar, 33rd Nahdlatul Ulama Congress in Jombang, the documents of *Bahtsul Masa'il* decision Number: 06 of 2020 concerning the export policy of Lobster seeds, as well as two books from studies of LBM-NU entitling "*Fiqh of Waste Management*" and "*Fiqh of Renewable Energy*". The research data were then analyzed using a historical-philosophical approach.

### **Environmental Issues in *Bahtsul Masa'il*: Products of Ecological Fatwas**

Historically, the idea to respond to the environmental crisis phenomenon had occurred since the 29th NU Congress in Cipasung, Tasikmalaya, West Java. Therefore, the congress held in 1994 can be claimed as the embryo of the "*Fiqh al-biah*" idea in Nahdlatul Ulama cultural tradition. At the congress, environmental pollution law had even been stipulated as *haram* (forbidden action) and was categorized

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<sup>15</sup> The use of *maqasid syariah* approach in a variety of research is carried out by many contemporary researchers. Among others, there found Ahmad Imam Mawardi, *Fiqh Minoritas: Fiqh Al-Aqalliyat Dan Evolusi Maqasid Al-Syariah Dari Konsep Ke Pendekatan* (Yogyakarta: LKiS, 2010). Harun al-Rasyid, *Fikih Korupsi: Analisis Politik Uang di Indonesia dalam Perspektif Maqasid Al-Syariah* (Jakarta: Kencana, 2016). Moh. Thariquddin, *Pengelolaan Zakat Produktif Perspektif Maqasid al-Syariah Ibn Asyur* (Malang: UIN-Maliki Press, 2015). Zainab al-Alwani, *al-U Sarah fi Maqasid al-Syariah: Qirāah fi Qadāyā al-Zawājwa al-Talāq fi Amrika* (USA: The International Institute of Islamic Thought, 2013) and other studies.

as a criminal act (*jarimah*).<sup>16</sup> Furthermore, through *Bahtsul Masail*, NU has accused environmental pollution acts as a type of crime.

Three years later, on *Halaqah National Forestry and Environment Movement* (GNKL; Gerakan Nasional Kehutanan dan Lingkungan Hidup) held on 20-23th July 2007, PBNU had taken one step forward for accentuating its concern in responding to ecological issues. It obliged *Nahdliyyin* to fight for environmental preservation (*jihad bi'iyah*) and claimed it as a movement to care for the environment. They were told to plant and care for trees, conserve forests, soil, water, and biodiversity, improve mining areas, help with disaster management, build national food and energy security, increase competitiveness of domestic products, neutralize global market penetration, and maintain national economic stability.

The decision of the Cipasung congress (1994) and PBNU *Halaqah* (2007) were the starting points for NU's awareness in guarding environmental political policies in Indonesia. The literacy of *nahdliyyin* regarding the importance of protecting the environment is a real contribution in order to realize sustainable development, particularly at the ecological aspect. As a mass organization that has succeeded in building a civil society, it makes sense if NU also aims to succeed in developing ecological awareness through building eco-society for the benefit of environmental preservation.

Furthermore, at the 32<sup>nd</sup> NU congress in Makassar, *Bahtsul Masa'il* had again discussed several issues in the field of environmental issues, such as the law of illegal fishing.<sup>17</sup> Subsequently a year later, at the 33<sup>rd</sup>

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<sup>16</sup> See, Decision of Nahdlatul Ulama 29th Congress in CipasungTasikmalaya on1 Rajab 1415 H. / 4 Desember 1994 M. "Keputusan-Muktamar-Nahdlatul-Ulama-Ke-29-Cipasung-Tasikmalaya-4-Desember-1994," accessed September 20, 2020, <https://www.laduni.id/post/read/63122/keputusan-muktamar-nahdlatul-ulama-ke-29-cipasung-tasikmalaya-4-desember-1994-m.html>.

<sup>17</sup> The Decision of Commission of Bahtsul Masail Diniyah Waqi'iyah Muktamar Nahdlatul Ulama XXXII 2010. See, "Hasil\_Keputusan\_Muktamar\_Ke\_32\_NAHDLATUL\_ULAMA\_di\_Makassar

Congress in Jombang, East Java, the environmental issue came up again and became a discussion theme at the forum. The forums examined several contemporary issues related to environmental problems, including the law of burning and sinking foreign ships carrying out illegal fishing; the law of excessive exploitation of nature; and the land conversion law.

More specifically, the ecological fatwas from the discussion of *Bahtsul Masa'il* include the following:

### 1. Fatwa of Illegal Fishing

The illegal fishing practice is one of the problems for Indonesian fishery resource management. The Indonesian fishery resource is often exploited by fishermen from neighboring countries. On the other hand, sometimes, Indonesian fishermen also make the same in the borders of neighboring countries.

Therefore, the *Bahtsul Masa'il* forum found it urgent to discuss the legal status of the practice. There are at least three issues in the discussion. *First* is whether the practice is categorized as an act of theft (*sariqah* in the study of *fiqh*). *Second* is whether the law of national borders automatically becomes the law of property rights and the *third* is on the legal status of the stolen fish.

Answering this problem, the *Bahtsul Masa'il* concluded that the theft of fishes is out of *sariqah* concept in the term of *fiqh*. However, it is considered forbidden because it violates international agreements. This closely relates to the result of a discussion on the second problem that the state boundaries cannot become legal provisions of ownership although it might become legal provisions in the rights of state power.

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22\_28\_Maret\_2010.,” 2010,  
[https://www.academia.edu/42099304/Hasil\\_Keputusan\\_Muktamar\\_Ke\\_32\\_NAHDLATUL\\_ULAMA\\_di\\_Makassar\\_22\\_28\\_Maret\\_2010](https://www.academia.edu/42099304/Hasil_Keputusan_Muktamar_Ke_32_NAHDLATUL_ULAMA_di_Makassar_22_28_Maret_2010).



In this context, the stolen fish might be seized by the state as its original owner as *ta'zīr māl* (in the context of state power).<sup>18</sup>

## 2. Fatwa on Burning and Sinking Illegal Fishing Vessels

Continuing the discussion of the *Bahtsul Masa'il* forum at the 32<sup>nd</sup> NU Congress in Makassar about illegal fishing, the next congress at Jombang discussed the related issue, namely the practice of burning and sinking illegal fishing vessels. The forum provided a legal answer for supporting environmental protection.

It concluded that the practice of burning and sinking any foreign illegal fishing vessels is allowed as they have violated the territory law of Indonesia. The consideration is on the benefit that the fatwa brings for protecting the sovereignty of Indonesia as a country. In the concept of Islamic law, this punishment is categorized as a form of *ta'zīr*. However, if it is deemed necessary to change the form of *ta'zīr* to another one, Islamic law might justify the new form as long as it gives benefits for public (*maslahah 'āmmah*).<sup>19</sup>

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<sup>18</sup>The references in determining the law of illegal fishing are as follow: *Hāsyyiyah al-Jamal* (p. 470-471), *Faid al-Qadīr* vol. VI (p. 276), *Rawdhah al-Thālibīn wa Umdah al-Muftīn* vol. III (p. 430), *al-Tasyrī' al-Jinā'ī al-Islāmī* vol. I (p. 295-296), *Qurrah al-Ain* (p. 96-97), *Bughhiyyah al-Mustarsyidīn* (p. 91), *Hāsyyiyah Qalyubī wa Āmirah* vol. IX (p. 461), *al-Thuruq al-Hukmiyah fi al-Siyāsah al-Syar'iyah* (p. 266-279).

<sup>19</sup>The references of formulating the fatwa are as follow: *al-Tasyrī' al-Jinā'ī al-Islāmī* (vol. 1/295), *Hāsyyiyah Qalyubī wa Umairah*, *Ihyā' Ulūm al-Dīn* (vol 2/167), *Al-Ahkām al-Sultāniyah li al-Mawardī* (p.237), *Fath al-Wahhāb* vol. 2/289), *Al-Yāqūt al-Nafīs* (p. 707), *Al-Hāwiy li al-Fatawi' of al-Suyūti* (h. 117), *al-Fiqh al-Islāmī wa Adillatuhu* of Wahbah al-Zuhaili (vol. 8/114), *Fath al-Wahhāb* (vol 2/289), *Bughhiyyah al-Murtasyidīn* (p.142), *al-Fiqh 'ala al-Mazāhib al-Arba'ah* (Vol. 5/407), *Fatāwā al-Ramli'iy* (vol. 3/13), *Tuhfah al-Muhtāj* (vol. 6/21), *Al-Hāwiy li al-Fatāwī* (p. 120), *Al-Mawsū'ah al-Fiqhiyah al-Kuwaitiyah* (Vol. 12/h.270), and *Ma'ālim al-Qurbah fi Ma'ālim al-Hisbah* (p. 196).

### 3. Fatwa on Disproportional Nature Exploitation

In addition to the previous issue about the practice of sinking and burning illegal fishing vessels, the 33rd NU Congress at Jombang also discussed the issue of natural resource exploitation. This refers to environmental-unfriendly exploitation which has been becoming a serious problem in Indonesia. Natural resource exploitation is believed to cause inevitable environmental damage while its scope is often destructive, excessive and even unlimited.

The discussion on this particular issue led to the following fatwa decisions: *First*, it is forbidden (*haram*, in the term of Islamic law) and prohibited to do any excessive exploitation of natural resources and cause any environmental damage. *Second*, it is also forbidden for the government to intentionally – without considering administrative and procedural requirements – issue permits for corporations or mining companies that cause irreparable environmental damage. *Third*, it is obligatory for Muslim communities to do *amr ma'ruf nahi munkar* (telling others to do the good and forbidding them to do the bad ones) according to their abilities.<sup>20</sup> Along with these three fatawa, PBNU also recommends Muslims to utilize natural resources in a sustainable and environmentally friendly manner.

### 4. Fatwa on Land Conversion

The issue of land conversion was another theme that the *Bahtsul Masa'il* forum discussed in the NU 33<sup>rd</sup> Congress in Jombang. It resulted in two following fatwa. *First*, the conversion of any productive land, such as agricultural land or fields to housing, offices or factories which is believed to give negative impacts (*madhārat āmmah*) on the economy and legal environment aspects is unlawful (forbidden or prohibited). *Second*, buying productive land to convert it to any

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<sup>20</sup>The references in formulating this legal treatment are Tafsir al-Razi (vol. VII/146), *Al-Fiqh al-Islamiwa Adillatuhu*, and *Al-Majmu' Syarah al-Muhazzab* (vol. XII/118).

infrastructure is lawful. However, when it is believed to give negative impacts (*madhārat āmmah*), the government is obliged to prohibit it.<sup>21</sup>

### 5. Fatwa on Lobster Seed Export

According to *the fiqh* perspective, the issue of lobster seed export policy is under the category of *ma'alat fiqh*. It is a branch of *fiqh* that focuses on the impact of any legal actions to various life aspects, mainly public interest (*maslahat*). To this extent, the aspect is particularly about the sustainability of biodiversity-ecosystem as an ecological benefit. This kind of *fiqh* becomes urgent as it observes the impact of any action to consider in a process of determining the legal status of the action.

Ecologically, in a massive volume, the practice of lobster seed export will cause the extinction of not only the seeds but also the lobster itself. The policy, therefore, does not represent Islamic teachings and even contradicts the spirit to conserve biodiversity. More than that, the lobster seed export policy will also give negative impacts on the future generations that they can't get lobsters anymore due to the extinction of their habitat.

Meanwhile, from the perspective of the economy, instead of showing concern to small fishermen, this policy in fact puts the advantage only on those with big capital. Small fishermen will suffer much loss and find their daily income decreased. Additionally, this policy also contradicts one of the Indonesian government's sustainable development goals, namely conserving and utilizing natural resources as well as the oceans in a friendly and sustainable manner.<sup>22</sup>

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<sup>21</sup>The references in determining the law are as follow: *Al-Majmū' Syarah al-Muhazzab* (vol. XV/227), *Hawāsyī al-Syiwaniy* (vol VI/224), *Fatāwā al-Azhār* (vol. VII/79), and *Hāwiy al-Kabīr li al-Mawardī* (vol. VII/1244).

<sup>22</sup> The result of *Bahtsul Masail* of Lembaga Bahtsul Masail (LBM) PBNU Nomor: 06 Year 2020 about The Policy of Lobster Seed Export, see "Hasil-BM-Ttg-Kebijakan-Ekspor-Benih-Lobster-Final," accessed September 20, 2020, <https://www.mongabay.co.id/wp-content/uploads/2020/08/Hasil-BM-Ttg-Kebijakan-Ekspor-Benih-Lobster-Final.pdf>.

## 6. Fatwa on Combating Plastic Waste

Another environmental specific issue that Nahdlatul Ulama' responses is about plastic waste. Indonesia is experiencing an acute problem of plastic waste. The impact of this damage is so much unavoidable that PBNU launched the book "*Fiqh for Plastic Waste Management*". The book was initiated by a team from *The Bahtsul Masa'il* forum along with PBNU Disaster Management and Climate Change Agency (LPBI; Lembaga Penanggulangan Bencana dan Perubahan Iklim).

Substantially, the book discusses Islamic view on the environment, the law and sanction of littering plastic waste carelessly,<sup>23</sup> the obligation to understand plastic waste management properly,<sup>24</sup> the law for tackling plastic waste,<sup>25</sup> and the responsible party for that.<sup>26</sup> One important point of the book is its effort and initiative for shifting society's paradigm to make them more aware of the environment.<sup>27</sup> In addition, it also tries to increase participation and the role of the community in tackling plastic waste through presenting this discourse within the book. It also accentuates that collective awareness of the environment requires the active participation of all elements in society.<sup>28</sup>

## 7. Fatwa on Environmentally Friendly Renewable Energy

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<sup>23</sup> See, Team Bahtsul Masail Institute and Agency for Disaster Management and Climate Change "*Fiqh for Plastic Waste Management*," n.d., [http: LBM and LPBI, t.th](http://LBMandLPBI.t.th), 17 and 24. Accessed in [https://drive.google.com/file/d/1nybueYMH8W\\_TE0O\\_pVrxcP3eVGKhnt0O/view](https://drive.google.com/file/d/1nybueYMH8W_TE0O_pVrxcP3eVGKhnt0O/view), 30/06/2020.

<sup>24</sup>Ibid., 27.

<sup>25</sup>Ibid., 29.

<sup>26</sup>Ibid., 31.

<sup>27</sup>Ibid., 39.

<sup>28</sup>Ibid., 47.

Another book which shows Nahdlatul Ulama's response on the environmental issues was entitled "Renewable Energy Fiqh: Islamic Views and Responses to Solar Power Plants (PLTS; *Pembangkit Listrik Tenaga Surya*)". The book was published by PBNU Institute for Studies and Human Resources (LAKPESDAM; *Lembaga Kajian dan Pengembangan Sumber Daya Manusia*) last 2017. In general, the book discusses the discourse of renewable energy from a *fiqh* perspective. However, it does not only talk about lawful and unlawful (*halal-haram*), but also examines the concepts and practices of renewable energy using religious perspective both in terms of its advantages and disadvantages for sustainable community life.<sup>29</sup> The book uses *Bahtsul Masail*'s style as a method to study, answer, and formulate the law of social problems related to renewable energy.<sup>30</sup>

The study on renewable energy from *the fiqh* perspective becomes urgent because the decision to switch the use of fossil to renewable one as the source of energy was driven by several motives, namely country's sovereignty, economic motives, sustainable development and green economic growth. Various renewable energy technologies have been furthermore proven reliable in supplying energy needs for several economic activities both on large and small scales. It is also known for the ability to provide the energy needed for production while simultaneously minimizing negative impacts on the environment.<sup>31</sup>

In this context, the religious view on sophisticated technology through the use of renewable energy is associated with the relationship

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<sup>29</sup> Marzuki Wahid, ed., *Fikih Energi Terbarukan: Pandangan dan Respons Islam atas Pembangkit Listrik Tenaga Surya (PLTS)* (Jakarta-Yogyakarta: Kemala Konsorsium Energi Mandiri Lestari, 2017), 5 [https://www.researchgate.net/publication/323254703\\_Fikih\\_Energi\\_Terbarukan\\_-\\_Pandangan\\_dan\\_Respons\\_Islam\\_Atas\\_Pembangkit\\_Listrik\\_Tenaga\\_Surya\\_PLTS](https://www.researchgate.net/publication/323254703_Fikih_Energi_Terbarukan_-_Pandangan_dan_Respons_Islam_Atas_Pembangkit_Listrik_Tenaga_Surya_PLTS) Accessed (30/06/2020).

<sup>30</sup> Wahid, 7.

<sup>31</sup> Wahid, 39.

between humans and the universe. Islam obliges three basic principles to develop in the interaction between Muslim and nature. *The First* is to respect the diversity of the universe or respect for nature, *the second* is to be responsible as a caliph on the earth with moral responsibility for nature, and *the third* is to have cosmic solidarity to save and protect the eco-system.<sup>32</sup>

The study in the book concludes that in the Islamic view, energy in all of its forms is a very vital and urgent need in human life (*min al-umūr al-dharūriyah*) as there is almost no life without energy. Therefore, the provision of energy means an effort to maintain and protect the soul (*hifz al-nafs*) of mankind which is the goal of sharia (*maqāsid syarīah*). At this level, it is obligatory for the government to facilitate the availability of energy for its people at an affordable price and environmentally friendly one for the sake of sustainability on the universal life.<sup>33</sup>

On the basis of it, Nahdlatul Ulama' (NU) as an Islamic organization driven by *kyai* (Islamic scholars) greatly contributes to encouraging the transformation of *rahmat li al-lamin* values to become social-ethic for environmental sustainability. The contribution in fostering people through environmental education is believed to be very urgent as *kiai*'s response to the recent environmental crisis. In this position, Nahdlatul Ulama' does not only enlighten the community through preaching in the field of worship but also responds to socio-ecological problems in order to save environmental ecosystems amidst degradation and crisis.

Philosophically, ecological fatwas of *Bahtsul Masa'il* are an implementation of *maqāsid syarī'ah* values in responding to socio-ecological phenomena on the impact of environmental crisis. Islam itself puts the principle of protecting the environment (*hifz al-bi'ah*) as a logical thinking paradigm in formulating responsive and accommodative law. This is mainly because *hifz al-bi'ah* as an effort to

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<sup>32</sup> Wahid, 70.

<sup>33</sup> Wahid, 129.

preserve the environment has become the core of Islamic teachings in relation to Moslem's interaction with the environment (*habl min al-ālam*).

According to its authority, ecological fatwa products have strong literary references that make them scientifically authoritative. However, it needs to be noted that from the reference's type, there found a paradigm shift in the use of contemporary literature as references in discussing environmental issues. This can be understood because environmental issues are relatively new discussion topics that had not been covered in classical literature such as the authority books (*kutub al-mu'tabarah*) that *Bahtsul Masai'l* forum used to refer to. As a consequence, the results of ecological fatwa products contain data from several contemporary kinds of literature such as *al-Tasyri 'al-Jinai al-Islami*, *Fiqh al-Islam waAdillatuhu*, *al-Fiqh 'ala al-Mazahib al-Arbaah* and relevant other books.

Meanwhile from a methodological aspect, *The Bahtsul Masa'il* forum uses two approaches in formulating ecological fatwas, namely *qawli* and *manhaji*. The former approach, *qawli*, is a method of making legal decisions (fatwas) based on information from jurists in classical books which nowadays still becomes a dominant method. This approach is clear, for instance, in an ecological fatwa on the law of illegal fishing, sinking and burning illegal vessels which violate the law, prohibiting excessive exploitation of natural resources, and law of land conversion.

Meanwhile, the fatwa on tackling plastic waste and renewable energy as well as the response on lobster seed export policy uses both *qauli* and *manhaji* approaches. This means that in addition to use references from classical texts in *mu'tabarah* (authoritative) jurisprudence books, it also refers to methodological reasoning with practical principles of legal *istinbath* (law decision making). Additionally, the use of *fiqh* principles in deciding legal conclusions has also become a new feature and characteristic in responding to environmental issues as a part of contemporary jurisprudence.

Therefore, it can be said that practically, the decision-making process in *Bahtsul Masa'il* trials was carried out through in-depth studies along with legal reasoning use both *qauli* and *manhaji*. This gives very much sense because as one of the contemporary issues, ecological problems require reasoning with a certain methodological approach giving the condition that classical scholars have not previously discussed it.

### **Socio-Historical Review of *Green Fatwas***

As an Islamic mass organization established by some *kiais*, Nahdlatul Ulama has made its mind to serve the nation and people (*ummah*) mainly in the social sector. This is obvious in NU's articles of Association, namely Article 9 letter (c) which states that in the social sector, NU aims to strive for and encourage the continuous development in the fields of health service, family's goodness and resilience, as well as concern on marginalized/vulnerable communities (*mustadh'afin*)<sup>34</sup>.

As time goes by and society deals with various new challenges, Nahdlatul Ulama is demanded to respond to any social problem that becomes society's discourse and concern. The environmental crisis, in this talk, as a global discussion topic, is not excluded. It catches attention and response from NU *kiais* especially in relation to cope with people's problems because of environmental crisis. Nahdlatul Ulama seems to really understand that the current environmental crisis is due to human behavior in the environment that tends to be destructive and unfriendly. The excessive use and exploitation of natural resources, for instance, will likely give negative impacts on the development of Indonesia as a country.

On the basis of it, the 33<sup>rd</sup> Nahdlatul Ulama Congress in Jombang had underlined an obligation that any industrialization as a result of

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<sup>34</sup> See the results of the 33<sup>rd</sup> Nahdlatul Ulama Congress in Jombang, 48. "Hasil-BM-Ttg-Kebijakan-Ekspor-Benih-Lobster-Final."



globalization and current development must be environmentally friendly and paying so much attention to environmental aspects. The same goes on for the process of arranging government development programs in which ecological aspects need to get considered in order to maintain sustainable environment. One point of NU congress recommendation is as follows:

“Nahdlatul Ulama as one of owners and founders of this country is responsible to guide the establishment of environmentally-friendly development and industrialization. It needs to ensure that any development and industrialization program can guarantee environmental sustainability and the Indonesians' prosperity.”

Beginning from this context, Nahdlatul Ulama is committed to contributing in the sense of educating the public on their obligation to interact with the environment in a friendly manner. They are obliged to put the priority of ecosystem sustainability in utilizing natural resources potency.

Among others, this commitment is clear from the issue of some fatwas from LBM-NU after a series of discussions and decision making. The fatwa itself is moral-ethical guidance for *Nahdliyin*. Its making was based on the concern of *nahdliyin kiai* and intellectuals regarding the phenomenon of environmental crisis mainly during the last two decades.

They do realize that environmental crisis can give a negative impact on Indonesian development. Various natural disasters such as landslides, floods, climate change and global warming are among the concerned phenomena that lead them to take preventive action. Unfortunately, most of the time, human's greed in using natural resources becomes the cause of those disasters.

In a further examination, it becomes clear that ecological fatwas that LBM-NU issued are under a categorization, although they all talk

about environmental issues. The category consists of *waqi'iyah* (phenomenon based), *maudhūiyah* (thematic based) and *qānūniyah* (policy based) problems. For example, the fatwa on illegal fishing resulted from *The Bahtsul Masail* forum at the fatwa commission on *al-dīniyah al-waqi'iyah* (religious phenomenon). It occurred the same for fatwa on burning and sinking illegal foreign vessels for carrying out illegal fishing.

Historically, the issuance context of the fatwa on illegal fishing was the phenomenon of illegal fishing around Indonesian water territory which was increasingly massive. The fishery resources were automatically so much overexploited by foreign fishermen. Meanwhile, the fatwa on burning and sinking illegal ships was also because of illegal fishing practice and is an implementation of Law Number 45 of 2009 concerning Fisheries.

Moreover, Article 69 paragraph (1) of Law Number 15 the year 2000 states that "fishery control vessels serve to carry out supervision and law enforcement in the fishery sector within the Indonesian fishery management area." Meanwhile, paragraph (4) states that in the implementation of the function mentioned in the paragraph 1, fisheries investigators and/or supervisors can carry out special actions namely burning and/or sinking fishing vessels with foreign flags based on sufficient initial evidence".

In this case, the Indonesian Ministry of Marine Affairs and Fisheries is given the authority to carry out the mandate of this Law. In accordance with it, the former minister, Susi Pujiastuti, is known for her strict policies against illegal fishing practices and firmness in sentencing the penalty for sinking illegal foreign vessels.<sup>35</sup> Since serving as the minister, the number of destroyed vessels from fisheries crime cases from October 2014 to 2019 had increased to 556. 321 of them

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<sup>35</sup> "Tenggelamkan-Kapal-Menteri-Susi-Diganjar-Seafood-Champion-Award-Di-Amerika," accessed September 20, 2020, <http://rilis.id/tenggelamkan-kapal-menteri-susi-diganjar-seafood-champion-award-di-amerika.html>.

were Vietnamese-flagged vessels, 91 were Philippine, 87 were Malaysian, 24 were Thai, 2 were Papua New Guinean, 3 were Chinese, 1 was from Nigerian and Belize and the rest 26 were from local Indonesian.<sup>36</sup>

For the Ministry itself, this action does not only aim to carry out the mandate of the Fisheries Law but also to support President Jokowi's vision and mission to make the sea as Indonesian future backrest. In more concrete purpose, this aims to ensure the community welfare through allocating potential wealth of marine resources in fulfilling the needs of a fishing community.

Apart from it, ship sinking punishment actually intends to give a deterrent effect for illegal fishers due to their disadvantageous action. This firm attitude shows Indonesian capability in upholding the law and providing legal certainty as a sovereign country. As a result, these efforts resulted in a quite significant change as mentioned in research published in the journal *Nature*. It conveyed that Susi's aggressive policy against illegal fishing has successfully reduced the illegal fishing number by 25% while increasing potency of catches by 14% and profits by 12%.<sup>37</sup>

Another NU fatwa on the ecology, regarding the prohibition of excessive exploitation of natural resources, was based on socio-ecological facts particularly the unfriendly exploitation of natural resources. The phenomenon of the Indonesian environmental crisis is believed to have close relationship with the bad management and destructive use of natural resources. They both successfully put pressure on environmental sustainability as clear from the following examples:

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<sup>36</sup> "Selama-Menjabat-Menteri-Susi-Tenggelamkan-Berapa-Kapal," accessed September 20, 2020, <https://economy.okezone.com/read/2019/10/07/320/2113824/selama-menjabat-menteri-susi-tenggelamkan-berapa-kapal>.

<sup>37</sup> Reniel B Cabral, "Rapid and Lasting Gains from Solving Illegal Fishing," *Nature Ecology & Evolution*, no. 2 April (2018): 650–58.

In Riau, there found many dug pits of ex-bauxite mines while in Kalimantan, thousands of hectares of land are abandoned due to its former use as coal mine areas. Papua suffers from giant puddles of former gold mining, while Aceh is dealing with some abandoned oil and gas production former spots in addition to much-damaged lands due to natural resource exploitation. The damage is partly due to the weak government control as well as ignorance of AMDAL (*Analisis Mengenai Dampak Lingkungan; Environmental Impact Assessment*).

In this specific context, the existence of an ecological fatwa to educate the public on an ethical-religious approach in the use of environmentally friendly natural resources is absolutely necessary.<sup>38</sup> So far, the ethical-religious perspective of natural resource exploitation has been largely ignored. Instead, the exploitation actors focuses on business and capital interest mindset. They exploit the natural resource destructively out of reasonable limits while ignoring consideration of sustainable development vision.

Meanwhile, the issuance context for a fatwa on land conversion is based on the increasing need for residential houses due to a population increase as a result of demographic bonus which peaked in 2020-2030.<sup>39</sup> On the other hand, it is undeniable that massive

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<sup>38</sup> Relating to this, the Indonesian Ulama Council has also issued Fatwa Number 22 of 2011 concerning Environmentally Friendly Mining. The fatwa stated that the earth, water, and natural resources contained therein, including mining goods, are gifts of Allah Almighty that anyone can explore and exploit them for the benefit of the welfare and benefit of the community (*masalah 'ammah*) sustainably. See, "Fatwa-Majelis-Ulama-Indonesia-Nomor-22-Tahun-2011-Tentang-Pertambangan-Ramah-Lingkungan," accessed September 20, 2020, <https://mui-lplhsda.org/fatwa-majelis-ulama-indonesia-nomor-22-tahun-2011-tentang-pertambangan-ramah-lingkungan/>.

<sup>39</sup> The demographic bonus is a condition in which a region or country has a bigger productive age population (aged 15-64 years) compared to non-productive ones (over 65 years). It is said to be a "bonus" because this condition does not happen continuously and does not last long. Indonesia is estimated to experience a demographic bonus during 2012-2028. See,

infrastructure building certainly leads to the decrease of productive land as the livelihood of low-class communities. The conversion of productive land into factory buildings, shops, real estate, apartments and other properties will surely harm the poors in managing their productive land.

As for the next two fatwas against plastic waste<sup>40</sup> and renewable energy are LBM-NU's responses on very strategic environmental issues. Both are under the category of *maudhū'iyah*. Ecologically, environmental pollution caused by plastic waste is very dangerous. This type of waste takes so much time to decompose while having a significant negative impact on the marine ecosystem as the estuary of garbage flowing from rivers. It certainly endangers and disrupts the sea ecosystem.

In this context, as a religion with ecological moral-ethics teaching, Islam provides guidance for Muslims to interact with and manage plastic waste through an ethichal-religious approach. Such a normative response is the real contribution to create an environmentally literate society in order to build people's high awareness of the importance of a clean and environmentally friendly life.<sup>41</sup>

Meanwhile, the fatwa on renewable energy as discussed in the book "Renewable Energy Fiqh" is *Bahtsul Masail's* another response to a crucial environmental issue. What makes it urgent is particularly because renewable energy is the alternative to fulfill the energy needs

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Munawar Noor, "Kebijakan Pembangunan Kependudukan dan Bonus Demografi," *Serat Acitya; Jurnal Ilmiah UNTAG Semarang*, n.d.

<sup>40</sup>This fatwa was strengthened by the decision results of *Alim Ulama National Conference in Banjar 2019* which recommended to the government that littering is forbidden in a religious perspective. Recognized or not, this decision serves as a strategy of institutionalizing values and the result of *ijtihad* to become a part of a social norms that people will likely obey and let themselves be guided.

<sup>41</sup> Said Agil Siraj, *Islam dan Penanggulangan Bahaya Sampah Plastik* Preface in *Fiqh Penanggulangan Sampah Plastik* (Jakarta: Lembaga Bahtsul Masa'il PBNU dan Lembaga Penanggulangan Bencana dan Perubahan Iklim, n.d.), vii.

of Indonesian people in an environmentally friendly manner. Through *Bahtsul Masail*, Nahdlatul Ulama responds to these issues by encouraging the government to seek environmentally friendly alternative energy in order to preserve the environment and cope with environmental crisis due to destructive and environmentally unfriendly practices of coal mining and other resources. In this context, Nahdlatul Ulama' provides religious moral-ethical guidelines on how to proportionally use renewable energy.<sup>42</sup>

The last enlisted fatwa regarding the lobster seed export policy is categorized in the *qanūniyah* field because it was a response to government policies regarding the export of lobster seeds in the Ministry of Maritime Affairs and Fisheries Regulation Number 12/Permen-KP/2020 concerning the Management of Lobster (*Panulirus*spp), Crab (*Scylla* spp), and Crab (*Portunus*spp) in Indonesian Territory. Nahdlatul Ulama' assumes that this policy must have absolutely considered the benefits aspects and prevented the damage it causes. In general, NU thinks that the making process of any regulations related to the public interest in *fiqh* studies must refer to a *fiqh* rule saying that *tasarruf al-imām ala al-raiyah manūt bi al-maslahah* (the leader's policy on people must be in line with the public interest).

In general, The Ministry of Marine Affairs and Fisheries Regulation 12/2020 intends to "rearrange" the provisions for catching and/or releasing lobsters. This new regulation triggered a polemic especially because it opened the opportunity for exporting clear lobster seeds. Ecologically, the lobster seed export policy can give a negative impact on the lobster habitat itself. Therefore, through *Bahtsul Masail*, Nahdlatul Ulama' recommended the government to evaluate the policy because it threatens the sustainability of the lobster habitat. Besides, it will be disadvantageous for small fishermen who rely their income on the lobster commodity.

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<sup>42</sup> Rumadi, *Principal Director of Konsorsium Kemala's Preface in Fikih Energi Terbarukan* (Jakarta: Lakpesdam PBNU, 2017), ix.

Above all, the birth of ecological fatwas by Nahdlatul Ulama' through *Bahtsul Masa'il* (LBM-NU) forum was strongly influenced by socio-ecological reality that has become a public discourse and caught national and global attention. More than that, several ecological fatwas were born due to political, legal and social inequality factors. In this context, the LBM-NU fatwas as products of religious law and moral ethics for Muslim communities, especially *nahdliyin*, have an important role to increase ecological awareness and build a balance in the environmental ecosystem.

### **Follow Up Steps of Green Fatwas: Toward Nahdliyin's Eco-Literacy**

The term of eco-literacy or environmental literacy is often used to describe attitudes with high level of awareness on the importance of sustainable environment. Capra often uses another term interchangeably, namely ecological literacy as the eco stands for "ecological."<sup>43</sup>

In this context, those with eco-literacy are typically well motivated to protect and preserve the environment. They will likely arrange and apply a healthy and environmentally friendly lifestyle while making it harmonious with environment balances. This environmentally conscious attitude (eco-literacy), furthermore, will guide the whole aspects of their life and make it strongly-rooted culture that penetrates their mindset to build a sustainable society in a larger scope.<sup>44</sup>

The above characteristic is furthermore in line with Capra's statement that being environmentally conscious requires understanding on the principles of organizing ecological communities to apply in building sustainable communities on ecological

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<sup>43</sup> Sonny A Keraf, *Filsafat Lingkungan Hidup: Alam Sebagai Sebuah Sistem Kehidupan* (Yogyakarta: Kanisius, 2014), 127.

<sup>44</sup> Moh. Mufid, "Fikih Konservasi Laut: Relevansi Fiqh Al-Bi'ah di Wilayah Pesisir Lamongan," *Manahij: Jurnal Kajian Hukum Islam* VII, no. 1 June (2018): 10.

preservation. At this point, it needs revitalization in many fields to build a pro-environmental paradigm in the world of education, economics and politics.<sup>45</sup>

The ecological fatwas of Nahdlatul Ulama' as an ethical-religious guide, into this extent, has a strategic role in building public awareness on how they should interact with the environment sustainably equitably. *Nahdliyyin* as a part of Indonesian society, moreover, have moral responsibility to carry out a main mission as caliphs on the earth. Therefore, the ecological fatwas as instruments to educate public to care for the environment need to lead into a real movement through relevant programs that community can carry it out collectively.

On the other hand, it cannot be denied that many *nahdliyyin* still assume that natural resources seem to never run out. In fact, natural resources are limited and will run out soon particularly in an impropotional use. Therefore, the challenge of Muslims in general is to make public understand that water, air, climate, minerals and other natural resources need wise management and proper use by applying environmentally friendly treatment.

In responding to those who destructively litter waste randomly which then leads to abundant volume of waste and the deterioration of environmental carrying capacity, *Bank Sampah Nusantara* (Archipelago Garbage Bank) of LPBI standing for *Lembaga Penanggulangan Bencana dan Perubahan Iklim Nahdlatul Ulama* (Agency for Disaster Management and Climate Change) had promoted a campaign of "Zero Waste Archipelago" since its very first establishment. Additionally, the agency keeps discussing the issue of waste management both theoretically and practically that makes it known by more and more people through educational programs for the community from the central to regional levels. People are going to be more aware on the threat of waste problem to the life of mankind.

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<sup>45</sup> Fritjof Capra, *The Web of Life: A New Understanding of Living Systems* (London: Flamingo, 1997), 197.



In practical terms, the movement of "Zero Waste Archipelago" was followed up by direct assistance for the community, especially in Islamic colleges under the auspices of Nahdlatul Ulama. One of the featured programs to succeed this mission was a roadshow to several regional points in which some actors of LPBI-NU *Archipelago* Garbage Bank conducted training on environmentally friendly community-based waste bank management model.

### **Conclusion**

Ecological fatwa products from NU *Bahtsul Masa'il* forum are very strategic in responding to Indonesian's current environmental crisis. It closely relates to the socio-historical background in which NU has a strong commitment to guard Indonesian sustainable development. NU thinks it is urgent to provide moral guidance for Muslim community, particularly the *nahdliyyin*, to build their environmental awareness by issuing the fatwa. Afterward, some follow-up steps are taken such as through a program called *Bank Sampah Nusantara*. However, culturally, this kind of fatwa is believed to give insignificant impact without formal support of environmental political policies that favor for sustainable development. Without it, it is hard to give neither direct impact on the society nor binding "force" on the wider community.

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