Abstract

The enforcement of environmental law in Indonesia is inseparable from the existence of laws regulating the environment. However, the said law and its enforcement fail on a large scale to ask people to participate positively in environmental protection and conservation. The failure to apply and enforce the law has inspired many activisms to look at Islamic principles as the potential value to help the protection of the environment. In Indonesia, green fatwas have also been enacted to help address the issues. While many articles and academic works begin to propose Islamic environmentalism, this article goes even further by proposing the Islamization of environmental legislation. As a doctrinal study, this article relies on legal material related to the topic of green fatwas and environmental law. To sharpen the analysis, this article also employs social engineering theory. This article demonstrates dualism between the green fatwas and environmental law has resulted in the failure to attract people’s compliance. Therefore, the article recommends that assimilation between the green fatwas and the environmental law be made in the future politics of law concerning environmental law.

Keywords: Islamizing; green fatwa; environmental law; assimilation
A. Introduction

Indonesia\(^1\) and many other countries in the world have shared similar concerns regarding the existence of their respective environment.\(^2\) It is widely accepted that a natural balance between the natural environment, production and consumption sustains the chain of life on Earth. For this reason, a balance between the protection of natural resources and sustainable development is required to ensure that these resources may continue to be used by future generations.\(^3\)

Indonesia faces a myriad of environmental challenges impacting land, air, marine, and coastal areas at local, regional, and national levels. These issues include air and water pollution from industrial and domestic sources, as well as illegal activities such as large-scale deforestation for oil palm plantations, small-scale slash-and-burn agriculture, illegal logging, and timber trade. Indonesia’s deforestation is reported among the highest globally, with a huge area being lost annually. The country also grapples with declining biodiversity, mismanagement of land and natural resources, and the localized effects of global climate change. Illegal poaching, the trade in protected species, and unsustainable fishing practices further threaten biodiversity. Recently, large-scale forest fires have become a significant international concern due to their severe impacts, including air pollution, biodiversity loss, and landslides. These fires also contribute to transboundary air pollution and exacerbate global climate change by emitting large quantities of greenhouse gases and diminishing


\(^2\) A survey shows that despite being less educated about environmental issues, Indonesian people’s concerns are still higher with the environment than with corruption, women’s empowerment, and land ownership. USAID, “Indonesian Public Opinions on Environmental Issues: A National Survey,” September 2018, available at https://pdf.usaid.gov/pdf_docs/PA00TMNG.pdf, p. 62.

Protection of the environment and good environmental management can only be attained by compliance with environmental laws, by for example, effective and consistent civil and criminal enforcement of the law. Despite the increased recognition of the importance of resolving the many urgent environmental issues and the apparent political will to do so, cultural, economic, political, legal and geographical factors combined with a lack of resources and technical skills hinder Indonesia’s ability to address these issues effectively. The future strategy to promote effective enforcement of environmental law in Indonesia may involve strengthening its institutional capacity to manage and enforce environmental law, improving the legal and regulatory environmental framework and increasing public awareness and participation.

The issue of environmental law enforcement is inseparable from the existence of the law of the environment. There is a report in 2018 by the Intergovernmental Panel on Climate Change (IPCC) of the United Nations that states continue to fail to implement environmental law properly – and their failure to meet goals that address climate change brings the world closer to a point of no return. Due to this phenomenon, many would suggest that the law has to be revisited while addressing the problem of the lack of political will of the government. However, there is not just a need to ensure the proper implementation of environmental laws. There is also a need to ensure compliance. One of the foundations of the environmental rule of law, according to the World Declaration on the Environmental Rule of Law issued by the 1st IUCN World Environmental Congress

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5 Development Law Update, “Strengthening Environmental Law Compliance…”

in 2016, is the implementation of: “[m]easures to ensure effective compliance with laws, regulations and policies, including adequate criminal, civil and administrative enforcement actions, and mechanisms for timely, impartial and independent dispute resolution...”\(^7\)

Nevertheless, the achievement of environmental law enforcement cannot only depend on state institutions (government) and the legal substance to operate properly. On the one hand, this has been difficult to achieve in many states, including Indonesia. On the other hand, achieving compliance is not easy. While the subjects of the law such as state agencies or individuals are expected to comply with established positive law, the decision to do so (or not to do so) is largely moral in nature. This makes the issue of compliance complex as it will involve considerations of a multitude of non-legal factors that shape human behaviour and decision-making generally.\(^8\) This paper argues that the existence of other sources of normativity to foster compliance with the environmental law is now urgent. Arguably, religion represents the most promising of these sources.\(^9\)

In Indonesia, where Muslims are the majority, Islamic law would be trusted to largely operate at the societal level and grassroots in the form of fatwa. As a product of Islamic law, fatwa is the subject that needs to be taken into account for its contribution to protecting the environment through its religious prescription. Despite the notorious description of fatwas by various authors,\(^10\) these legal products

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\(^8\) Shazny Ramlan, “Religious Law for the Environment…”


are much awaited, such as fatwas on halal food,\textsuperscript{11} fatwas on Covid-19\textsuperscript{12} and several other fatwas related to social matters. Environmental fatwas are one of the fatwas that have been discussed positively. Studies addressing environmental fatwas noted how such fatwas are very important such as the ones conducted by Shazny Ramlan,\textsuperscript{13} Iiz Izmuddin,\textsuperscript{14} and Tri Harnowo & Fachry Hasani Habib.\textsuperscript{15} However, despite appreciation and acknowledgement of the fatwas, they do not recommend law reformation of the environmental law.

This article offers a view that goes further than just appreciating fatwas. It discusses the possibility of assimilating them into national law. It is argued that assimilation is possible in the context of the Indonesian legal system resulting in the legal reform of the Indonesian environmental law which is inspired by green fatwas.

B. Method

As a doctrinal study, this article relies on legal material related to the topic of fatwa and environmental law. Therefore, the primary sources are taken from fatwas of the MUI concerning environmental protection such as the fatwa concerning Environmentally Friendly Mining, the fatwa concerning Preservation of Endangered Animals to Maintain Ecosystem Balance, the fatwa Waste Management to Prevent Environmental Damage, and the fatwa concerning Laws on For-

\textsuperscript{13} Shazny Ramlan, “Implementing Islamic law...”.
\textsuperscript{14} Izmudin, et.al., “The Indonesian Ulema Council Fatwa Analysis on The Environment and Their Relationship to The Green Economics Concept Development,” Jurnal Syntax Admiration, 3 (12), 2022.
\textsuperscript{15} Tri Harnowo & Fachry Hasani Habib, “Islamic Law and Environment Issues: Indonesian Ulama Council’s Fatwas on Climate Change,” Ahkam: Jurnal Ilmu Syariah, 24(1) 2024.
est and Land Burning and Its Control. It also discusses Law Number 32 of 2009 concerning Environmental Protection and Management and Law Number 4 1982 on the Basic Provisions of the Management of the Living Environment. Similarly, Law No. 11 of 2020 on Job Creation (Omnibus Law) is also elaborated to investigate the reform of environmental issues within this regulation.

The sharpen the analysis, this article employs social engineering\textsuperscript{16} theory\textsuperscript{17} to analyse Islamic law which is more focused on the MUI’s fatwas. The fatwas are interpreted as a product of Islamic law that have authority based on God’s justice and social justice. Accordingly, the existence of fatwas on environmental issues can be analysed with the perspective of a social approach to see the extent to which fatwas can reconstruct and change social life in Muslim-majority societies.

C. Islamic Environmental Law: Myth or Reality?

According to Fachruddin Majeri Mangunjaya, the Muslim world has the potential to contribute positively to environmental protection by way of its beliefs and doctrine. Two out of three Muslims worldwide live in South and Southeast Asia, and Indonesia has the world’s largest Muslim population. In Southeast Asia and in Indonesia particularly, Islam has united diverse civilizations that have existed since ancient times. Its cultural assimilation is manifested through everyday activities such as traditional holidays, festivals and norms of dress. Further, the observance of Islamic ritual activities and required worship (the “five pillars of Islam”) are based on the Shafi’ite jurisprudential system, which is the most widespread in the country, extending out even to the most remote areas.\textsuperscript{18}

\begin{itemize}
\item \textsuperscript{16} The idea of Social Engineering is inspired by Roscoe Pound, \textit{An Introduction to the Philosophy of Law}, New Haven: Yale University Press, 1955.
\item \textsuperscript{17} Theoretically speaking, the idea of Islamic law is a product of social engineering constructed upon socio-legal jurisprudence. Adopted from Danu Aris Setiyanto, “Fatwa Sebagai Media Social Engineering (Analisis Fatwa MUI di bidang Hukum Keluarga Pasca Reformasi),” \textit{Al-Ahkam: Jurnal Ilmu Syari’ah dan Hukum}, Vol. 3, Nomor 1, 2018.
\item \textsuperscript{18} Fachruddin Majeri Mangunjaya and J.E. McKay, “Reviving an Islamic Ap-
To know Islam and its law, the best way is to observe its sources, particularly the Quran. In general, Islam, as a way of life, expects human beings to conserve the environment for several reasons which may be summarised as follows: The environment is God’s creation.\(^{19}\) The creation of this earth and all its natural resources is a sign of His wisdom, mercy, power and His other attributes and therefore serves to develop human awareness and understanding of this creator (Quran 13: 2-4; 21:79). Muslims should seek to protect and preserve the environment because by so doing they protect God’s creatures which pray to Him and praise Him, as humans are none but God’s slaves (‘abd), and ubudiyyah (servanthood) is the fundamental manifestation of one’s belief in the oneness of God (tauhid) in terms of worshipping Him.\(^{20}\)

The environment contains God’s creatures which the ulama or Muslim scholars consider to deserve protection. Another reason why Islam seeks to protect and preserve the environment is that Islam, as a way of life, is established on the concept of good (khair). Therefore, it is expected that Islam will protect the environment once it is understood that such protection is good by itself. The Quran states that: He who do good an atom’s weight will see it. And who do ill An atom’s weight will see it. (Quran 99: 7-8). In Islam, all human relationships have to be based on the concept of justice and kindness, and not on material or economic gain (Quran 16: 90). In Islam, humans are expected to protect the environment since no other creature can perform this task. Humans are the only beings that God has ‘entrusted’ with the accountability (amanah) of looking after the earth. This trust is seen by Islam to be so burdensome that no other creature would accept it. The Quran (33: 72) says: Lo! We offered the

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trust Unto the heavens and the Earth and the hills, but they shrank from bearing it And were afraid of it And man assumed it Lo! he is a tyrant and fools Accordingly, not every human can claim this appointment, only those who are aware of this caring pact of respect for life can claim it.21

There is an interesting report revealing that the majority of the world’s population follows religion and abides by prescribed religious laws in their daily lives, for example by reading the Quran obligation.22 This is true when one tries to observe Indonesia. Despite its status as a constitutionally non-Islamic state, Muslims in Indonesia have been expressing their obedience to Islam since childhood.23 The symbols of Islam, institutions, festivals, and daily activities may reflect most of the Islamic values of Muslims in Indonesia. In the political arena, Muslims usually return to Islamic sources to find out if their choice is always in line with the Islamic prescription. Therefore, it is unsurprisingly common to say that Indonesia is an Islamic country in culture.

Muslims are convinced that Islamic law (Sharia) is inseparable from their life. Therefore, it is not surprising that the call for the implementation of Islamic law as a positive law, either in the form of national laws or regional-based laws (PERDA), is still echoed today. Muslims believe there is not a single dimension of their life that can escape being ordered by the Sharia.24 Today, Muslims in Indonesia have turned to Islam to fill the gap in “modern” environmental law. Some of them, particularly from Muslim organizations like Nahdlatul Ulama, Muhammadiyah, and the MUI, voice out the calling for

21 Sayed Sikandar Shah Haneef, Principles of Environmental Law in Islam...
the revival of ecological spirituality.\textsuperscript{25} Anna M Gade portrayed such the phenomenon of Muslim engagement in environmental issues in his brilliant book “Muslim environmentalism: Religious and Social Foundations,” and provides argument on how Islamic scripture and Muslim practices of piety and spirituality have provided ground for environmentalism. \textsuperscript{26} The need to reexamine religion in light of the current environmental crisis to shape our attitudes towards nature in both conscious and unconscious ways has inspired politicians and environmentalists to be increasingly aware that climate change issues cannot be dealt with away from cultural and religious roots.\textsuperscript{27}

Looking at the fact that Muslims live Shariah or Islamic law, the existence of Islamic regulations on the environment like the ones articulated in fatwas, is not only a legal exercise but also an effort to answer, guide, and provide solutions for Muslims to act within the will of God.\textsuperscript{28} While the Quran and the Hadits as the main sources of Islamic law have required natural balance, Islamic regulations on environmental concerns are real and inevitable in the discourse of Islamic law.

**D. Fatwa on Environmental Issues**

According to Yusuf Qaradawi, as cited by Sofian Al Hakim, fatwa is a legal explanation of various issues aimed to answer and respond to a question, either clear or unclear question, raised by either individual or a community. The one who provides a fatwa is commonly called mufti.\textsuperscript{29} So, a fatwa is simply an answer to a question. Therefore, a

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\textsuperscript{25} Aninda Dewayanti & Norshahril Saat, Islamic Organizations and Environmentalism in Indonesia, ISEAS – Yusof Ishak Institute Perspective, ISSUE: 2020 No. 117.


}
fatwa, both in the Islamic legal system and national legislation, has no legal binding. Despite, the sanction that a fatwa might contain such haram (prohibited) and halal (permitted), there is not necessary to uphold the law over the failure of performing it.

Fatwa, in Indonesia, cannot be separated from the institution of the Indonesian Ulama Council (MUI). Although the main Islamic organisations in Indonesia, i.e., Nahdatul Ulama (NU) and Muhammadiyah\(^\text{30}\) also frequently issue fatwas, MUI has greater authority in issuing fatwas with the establishment of the Commission of Fatwa. The fatwas issued by MUI are numerous and diverse, covering issues of worship, politics, and social issues. Those fatwas are often compiled in one thick book. This shows that MUI is intensively issuing fatwas. Hence, issuing fatwas is often associated with the MUI Institution.

Syafiq Hasyim has recorded that the establishment of MUI cannot be separated from the role of the Old Order power. At that time Suharto wanted an institution that could be a dialogue partner and a bridge to Islamic organisations so that they could be more easily managed. This plan was initially rejected by the ulama. But after various efforts, finally at the National Conference of Indonesian Ulama in Jakarta in 1974, the ulamas agreed to form MUI. According to Syafiq, there were two reasons why the ulama agreed to the formation of MUI. Firstly, there was a desire from the ulama to create ukhuwah islamiyah or Islamic brotherhood and MUI provided an opportunity for that. This, for example, can be seen in the preamble of MUI. Secondly, MUI was considered to be a tool to counteract the latent danger of PKI (communist party). This can be seen from the speeches of Buya HAMKA, the first chairman of MUI. Since its establishment in 1975, MUI can generally be described as khadim al-hukuma (servant of the government), guardian of Pancasila (which became the basic

Enforcement of environmental law in Indonesia is crucial for effective environmental protection. It involves the government’s use of legal mechanisms to encourage public participation in safeguarding the environment. Strengthening the rule of law and promoting good governance is central to the efforts of the International Development Law Organization in supporting developing, transitional, and post-conflict nations toward sustainable development and poverty reduction. Environmental degradation disproportionately impacts the poorest communities, who depend directly on their natural surroundings for survival. Ensuring environmental sustainability is vital for poverty alleviation, as it supports long-term economic and social development. This requires the robust enforcement of a comprehensive environmental law and policy framework, which can only be achieved through a commitment to good governance.

To implement the protection of the environment, the government of Indonesia has issued the related law, namely the Law Number 23 of 1997 on Environmental Management and replaced with the Law Number 32 of 2009 on Environmental Protection and Management. The purpose of these Laws is to create an environmentally sustainable development through means of an environmental planning policy, and the rational exploitation, development, maintenance, restoration, supervision and control of the environment.

Nevertheless, achieving the rule of law in environmental matters cannot rely solely on the proper functioning of state institutions, as outlined in the aforementioned principle and the entire Declaration. Many states have found it challenging to realize this goal. Moreover, ensuring compliance is also difficult. While legal subjects—such as state agencies, individuals, and businesses—are expected to adhere to established laws, the decision to comply is often influenced by moral considerations. This complexity arises from the array of non-legal factors that affect human behaviour and decision-making. Therefore,

this paper advocates for incorporating additional normative sources, alongside state-enforced environmental laws, to promote compliance. Specifically, established sources like religion,32 which operate at the societal level and from the bottom up, can play a crucial role in fostering adherence to environmental regulations.

In many Muslim countries, like Indonesia, the zeitgeist of secularization over the past few centuries has ousted religion from political domination, while religious laws continue to operate at the societal level. Islamic laws also have similar social control effects as (that expected of) state laws; and like state environmental laws, Islamic law can also effect behavioural change in believers towards becoming more eco-friendly.33 In the case of Islamic law, Indonesia has adopted legislation and established institutions governing Muslims’ affairs at the national level, especially in civil law. However, Islamic environmental law still has little attention either by the state or by the Muslim community, like the fatwa (Islamic verdict) of the MUI.34

In Indonesia, Islamic environmental law is articulated in the fatwas issued, dominantly, by the MUI. Fatwas are the primary instruments of Indonesia’s “environmental fiqh,” and are part of the phenomenon of “the rhetoric (if not the practice) of “Islamic law”’ being mobilized for social change in the post-Suharto democratic transition. The MUI has issued collective fatwas concerning the environment. They are Fatwa No. 128/MUI-KS/XII/2006 on Forest Fires and Smoke (Kalimantan), Fatwa No. 22 of 2011 on Environmentally-Friendly Mining Practices, Fatwa No. 04/2014 concerning the Protection of Endangered Species to Maintain the Balanced Ecosystems.35 Fatwa No. 41 of 2014 on Waste Management for the Prevention of

33 Shazny Ramlan, “Religious Law for the Environment…”
34 One of the most comprehensive studies on the MUI was conducted by Muhammad Atho Mudzhar, Fatwas of the Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988, Jakarta: INIS, 1993.
Environmental Degradation. Fatwa No. 001/MUNAS-IX/MUI/2015 on the Utilization of Zakat Wealth, Infaq, Sadaqah, and Waqf for the Construction of Clean Water and Sanitation Facilities for Communities. Following the forest fire in Indonesia, the MUI also issued Fatwa No. 30 of 2016 regarding the Law on the Burning of Forests and Land, and the Control Thereof.\textsuperscript{36}

E. Transforming the Environmental Fatwas into A Positive Law.

The future strategy to promote effective enforcement of environmental law in Indonesia may involve strengthening its institutional capacity to manage and enforce environmental law, improving the legal and regulatory environmental framework and increasing public awareness and participation.

As a law product, \textit{fatwa} is of legal exercise by the \textit{ulama} aiming to merely answer the questions from the \textit{umma}. Yet it is not binding and no penalties can be applied against non-compliance. The MUI’s \textit{fatwa} might - and is always hoped to - bring solutions to support the application of environmental law and underline the importance of the protecting environment. At the same time, the initiation of the \textit{fatwa} on the environment can be assumed that the state has failed to enforce the national law and caused an environmental disaster.

Before the issuance of Law Number 32 of 2009 concerning Environmental Protection and Management, there had been a regulation addressing environmental concerns, namely Law Number 4 1982 on the Basic Provisions of the Management of the Living Environment. However, as environmental challenges continued to escalate, it became apparent that existing law needed revision and refinement to effectively address contemporary environmental issues.\textsuperscript{37}

The issue of environmental law is also addressed in Law No.

\textsuperscript{36} http://ppi.unas.ac.id/wp-content/uploads/2017/05/FATWA-KARHUT-LA-English.pdf

11 of 2020 on Job Creation (Omnibus Law). To create jobs, environmental licensing is one of the regulations that are simplified in conducting business activities, especially. It has to be noted that the nature of the existing legal instruments in environmental licensing is administrative and procedural accordingly aiming at preventing and controlling behaviour toward nature. With the existence of the Job Creation Law and its derivative regulations, environmental licensing was changed to a new approach, namely the Risk-Based Approach. A risk-based approach is to calculate the level of risk and will be a consideration for every action or business carried out. The higher the potential risk of a particular business activity, the tighter the controls made by the Government and the more requirements and inspections needed.  

The existence of national law on the environment is always anticipated to solve the problems over natural concerns, mainly raised by human behaviour. The problem is that compliance with the law and its enforcement has always faced discrepancies between legal substance, structure, and legal culture. On the other hand, the existence of such Islamic laws as the fatwa may also potentially lead to legal dualism in Indonesia (Islamic law vs. national law) creating a discrepancy between the state and the people in which people are more obedient to religion than to the state. Yet the religion implemented into a fatwa has no legal binding, and therefore, people also fail to comply with it. As a result of legal dualism, neither the law nor the fatwa can attract people’s compliance. Therefore, the best idea is the association of both Islamic and national law in one legislation.

The Constitutional Judge of the Republic of Indonesia, Wahi-

40 Friedman is a most famous law scholar discussing these three foundations of the legal system. Among his work is Lawrence M Friedman, “Legal Culture and Social Development,” Law & Society Review, Vol.4, (No.1) 1969.
duddin Adams, has reported that there have been a lot of *fatwas* included in the legislation. However, the nature of MUI’s *fatwa* still does not meet the requirements affirmed by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 on the Formation of Legislation (P3 Law) which defines legislation or *taqni* as written regulations containing binding legal norms and enacted or stipulated by state institutions or authorised officials through procedures stipulated in the legislation. Delivering his presentation at the 6th Annual Conference on Fatwa Studies (ACFS) in the framework of the 47th Anniversary of MUI organised by the MUI Fatwa Commission on Wednesday at the Sultan Hotel, Jakarta, he stated that despite the abundance of the MUI’s *fatwas*, they are only limited to being used as a consideration and used as a verbal guide by legislators as outlined in statutory regulation. Therefore, he suggested, in the upcoming legal practice in Indonesia, the MUI’s *fatwas* that have become *taqni* should be put into reality concretely to have binding norms like legislation in general.\(^41\)

Furthermore, Wahiduddin expressed that the MUI’s *fatwas* are inseparable from the issue of the position of Islamic law in the context of the formation of legislation in Indonesia. He admitted that the implementation and role of MUI’s *fatwas* as one of the products of Islamic legal thought are literally much adapted in responding to various laws and regulations. So far, MUI’s involvement in legislation is only regarded as participation in the formation of legislation as mentioned in Article 96 of Law Number 13 Year 2022, paragraph (3), MUI is associated as “… an individual or group of people who are directly affected and/or have an interest in the content material of the Draft Legislation.” Therefore, in this case, MUI is none but a community association representative.\(^42\)

It obvious that including the MUI’s *fatwas* as part of legislations that contain sanctions, ranging from Laws to Regional Regulations,

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\(^{42}\) Sri Pujianti, “Implementasi Fatwa MUI…..”
is not an easy matter. Therefore, the MUI members are highly expected to supervise the planning and evaluation of norms to ensure the implementation and the concretization of existing MUI fatwas in the legislation process. Accordingly, in the technique of legislation, it is suggested that the language used is no longer the fiqh-based nomenclature. Rather it is a familiar language with state law, yet still harmonised with the essence or meaning of the MUI’s fatwas.43

The assimilation of fatwas and national law can take a philosophical form of relation, i.e. to insert the fatwa in “consideration” to give a more Islamic nuance to environmental law. This is possible as Wahiduddin has put that as far as Islamic law is concerned, the legal basis of “Consideration” in legislation has been included in the constitutional basis of Article 29 of the 1945 Constitution, such as Law Number 1 of 1974 on Marriage; Law Number 23 of 2011 on Zakat Management; Law Number 41 of 2004 on Waqf; Law Number 33 of 2014 on Halal Product Guarantee; Law Number 34 of 2014 on Hajj Financial Management; and Law Number 8 of 2019 on the Implementation of Hajj and Umrah.44 Reflected from this private Islamic law, public law can also add some more Islamic law nuance by considering the fatwas.

From a philosophical perspective, the theory of maqashid shariah, the objectives of Islamic law that cover the protection of faith, the protection of life, the protection of intellectuality, the protection of property, the protection of lineage, and the protection of dignity and honour,45 can offer the very values of Islamic law to contribute to environmental law. The values are not only philosophical and adaptable but also Quranic-rooted. The green fatwas are not only norms of the products of fiqh but also contain the value of maqshid shariah that seeks something useful (manfa’ah) or removes something harmful (madharrah).

Another product of Syariah-based environmental law is through

43 Sri Pujianti, “Implementasi Fatwa MUI....”
44 Sri Pujianti, “Implementasi Fatwa MUI....”
45 Hammadi Al-Obeidi, Al-Shatibi wa Maqa asid al-Syariah (al-Shatibi and Maqasid al-Shari’ah), Tripoli: Mansyurat Kulliyyah ad-Da’wa al-Islamiyyah, 1992.
the transformation of the fundamental values of Islamic law referring to the theory of Islamic law (qawaid fiqhiyyah). The theory of Islamic law is vital to support the process of legislation of environmental law. In practice, the fatwa can also function as - and provide - the theory of Islamic law.

Today, the association of Islamic law and national law in public law concerns is no longer impossible. The political behaviour of Muslims in Indonesia has proven the success of the transformation of Islamic law into national law like the one demonstrated in criminal law. The Indonesian Criminal Code which was enacted in 2023 has witnessed the transformation of Islamic law into national law. Similar phenomena can also happen in the case of the green fatwas in the Indonesian environmental law. It is highly expected through their assimilation that both the green fatwas and the environmental law can fill the gap between one and another. From the assimilation, the green fatwas can have benefits from law enforcement and legal binding. Similarly, environmental law will benefit from Islamization which attracts Muslim people. Hence, the compliance of Muslim-majority people becomes more possible in Indonesia and their support to the Islamic-based environmental law is real.

F. Concluding Remarks and Recommendation

As explained elsewhere in this paper, the existence of an Islamic environmental law may have pros and cons as far as the enforcement of the environmental law in Indonesia is concerned. The fatwa – as it is hoped – is the supplement to the existing environmental law by which the enforcement of the law is hoped to run properly. However, it is also undeniable that the fatwa may result in the dualism of law in Indonesia, thus leading to confusion as to what value has to be performed. The paper demonstrates that the dualism of legal values is one of the core problems that resulted in the failure of environmental law enforcement in Indonesia, instead of the political will of the state. The article recommends that the green fatwas and the national law of the environment be consolidated in a more intimate relation.
In the next *ius constitutendum*, it is hoped that the *fatwas* be inserted in the consideration of the law. As Indonesia is associated with the *civil law* system in which the law is written, the fatwa needs to be transformed into a positive law. One best way to apply such an idea is that the green *fatwas* and the national law have to be assimilated through objective legislation to form a unified environmental law.

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