FATWA (RELIGIOUS PRONOUNCEMENT) OF THE
ULAMA COUNCIL OF INDONESIA

Number : 30 of 2016

Regarding:

LAW ON THE BURNING OF FORESTS AND LAND
AND THE CONTROL THEREOF

The Fatwa Commission of the Ulama Council of Indonesia (MUI), upon:

TAKING INTO CONSIDERATION : 1. whereas, forests and land are blessings of Allah SWT (Glory to Him, the Exalted), that are important to be protected, preserved and utilized for the benefit of all;
2. whereas, efforts taken by the community to utilize forests and land often involve burning and thus causing damage and loss;
3. whereas, among such damage and loss caused by the fire is smoke, particularly in peat land, adversely affecting transportation, health, education, social activities, the economy, biodiversity, and the environment;
4. whereas, given such facts, questions arise with regard as to where the [Islamic] law stands on the burning of forests and land;
5. whereas, therefore, it is deemed necessary to establish a fatwa on the law that applies to the burning of forests and land and measures to control them, to serve as guiding principles.

RECALLING : 1. Al-Quran:

a. Words of Allah SWT elaborating on engaging a livelihood without causing damage to the earth:

كُلُوا وَاشْرَبُوا مِنْ رِزْقِ اللهِ وَلََ ت َعْث َوْا فِ

Meaning: “Eat and drink from the provision of Allah , and do not commit abuse on the earth, spreading corruption.” (QS. al-Baqarah: 60).

b. Words of Allah SWT forbidding man to cause damage on land and in the sea through their deeds:

ظَهَرَ اْلََِْادُ فِ اْلب َرِّ وَالْبَحْرِ بَِِا كََِبَتْ أَنِِْي النَّاسِ لِيُذِنقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ

Meaning: “Corruption has appeared throughout the land and sea by
[reason of] what the hands of people have earned so He may let them taste part of [the consequence of] what they have done that perhaps they will return [to righteousness]." (QS. al-Rûm: 41)

Meaning: “And do not cause corruption on the earth after its restoration, and supplicate Him with fear and hope: indeed Allah’s mercy is close to the virtuous.” (Q.S. al-A’râf: 56)

c. Words of Allah SWT explaining the commandment to undertake good deeds:

Meaning: “Verily, Allah has ordered you to perform good deeds, and forbids you from committing malice, disobedience and acts of hostility. He provides with teachings so that you may take heed.” (Q.S. An Nahl: 90)

Meaning: “And seek what has been blessed upon you (bliss) at the afterlife, and do not forsake your joy in the world and do good (upon others) as Allah has bestowed upon you, and you shall not bring corruption to this world. Verily, Allah disfavors those who commit harm.” (Q.S. Al Qashash [28]: 77)

d. Words of Allah SWT forbidding the pursuit of desires that can lead to destruction:

Meaning: “And if the truth were to follow their desires, verily, the heavens and the earth, the sky and earth would crumble. Nay, We have brought them their blessing, but they turn away from their blessing.” (Q.S. al-Mu’minûn: 71).

e. Words of Allah SWT on the consequence for people committing wrongful deeds:
أُغْشِيَتْ وُجُوهُهُمْ قَطَعًا مِنَ اللَّيْلِ مُظْلِمًا أُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

Meaning: “And those who have earned evil deeds, the recompense of an evil deed is the like thereof, and humiliating disgrace will cover them (their faces). No defender will they have from Allah. Their faces will be covered, as it were, with pieces from the darkness of night. They are dwellers of the Fire, they will abide therein forever.” (Q.S. Yûnus: 27).

f. Words of Allah SWT forbidding the commission of misdeeds that prejudice a person’s rights and causing damage:

وَلَلْتَبْخَُِوا النَّاسَ أَشْيَاءَهُمْ وَلَلْتَعْثَوْا فِ اَْْرِِْمُِِِِْْنَ

Meaning: “And defraud not people by reducing their things, nor act with greed by causing damage.” (Q.S. al-Syu'arâ': 183).

g. Words of Allah SWT explaining disaster as brought upon by man’s own deed:

وَمَا أَصَابَكُمْ مِنْ مُصِيبَةٍ فَبِمَا كََِبَتْ أَنِِْنكُمْ وَن َعُْْوا عَنْ كَثِيرٍ

Meaning: “And whatever of misfortune befalls you, it is because of what your hands have earned. And He pardons much.” (Q.S. al-Syûrâ: 30).

h. Words of Allah SWT explaining the obligation to obey Allah SWT, the Prophet SAW, and Ulil Amri:

نَآَانِهَا الَّذِننَ آمَنُوا أَطِيعُوا اللهَ وَأَطِيعُوا الرَّسُولَ وَأُولِِ اَْْمْرِ مِنْكُمْ فَإِنْ تُنَازَعْتُمْ فِ شَيْءٍ فَرُدُّوهُ إِلََ اللهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللهِ وَالْي َوْمِ الْْخِرِ ذَلِكَ خَي ْرٌ وَأَحَِْنُ تَأْوِنلًَ

Meaning: “O you who are of faith! Obey Allah and obey the Prophet (Muhammad ), and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allah and His Prophet, if you believe in Allah and in the Last Day. That is better and more suitable for final determination.” (Q.S. al-Nisâ’: 59).

2. Hadith of the Prophet Muhammad SAW, among others:

a. Hadith as told by Abû Dâwud and Ahmad from Anas ibnu Mâlik:

عن أناس بن مالك قال: قال رسول الله صلى الله عليه وسلم: “إِنْ قَامَتِ الَِّاعَةُ وَبِيَِِ أَحَِِكُمْ فَِِيلَةٌ، فَإِنِ اسْتَطَاعَ أَنْ لََقُومَ حَتََّّ ن َغْرِسَهَا فَلْيَعْلُوْ” - رواه أبو داود وأحمد.

Meaning: Anas the son of Malik told of the words spoken by the Prophet SAW: “Once the end of days is upon us, and in the hands of you there is a
seed of the date fruit, if you are able to plant (such seed of date), do so.”  
(H.R. Abû Dâwud and Ahmad).

b. Hadith as told by Muslim from Jâbir ra:

"عن جâbir بن عبّâد الله، أن رَسُولَ الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قال: "أنفِقوا الظُلمَ، فإن الظُلمُ فَظَلَّمَاتٌ تَوَّمَّى الْجِهَادِ، وَأَنفِقوا الصَّعْبُ، فَإِنَّ الصَّعْبَ أَهْلُكَ مِنْ كَانَ قَبْلَكُمْ حُمِّلُهُمْ عَلَى أَنْ سَفُكُوا دِمَاءَهُمْ وَإِسْتَحْلِلُوا مَّارِمَهُمْ""

Meaning: From Jâbir bin ‘Abdullâh, the Prophet SAW has spoken: “Keep way from cruel acts, as such acts only bring forth darkness at the end of days, and keep away from miserly behavior, as such behavior has destroyed people before you, bringing upon them bloodshed and to make halal (permissible) of what ought to be haram (forbidden).”  (H.R. Muslim).

c. Hadith as told by Ibn Mâjah, al-Thabarâni and al-Baihaqi from Ibn 'Abbâs ra.

"عن ابن عبّâد الله، قال: رَسُولُ الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قال: "لَضَرَرَ وَلَضِرَارَ" - رواه ابن ماجه والطبراني والبيهقي


d. Hadith as told by al-Bukhâri and Muslim from ‘Abdullâh ibnu ‘Amr ibnu ‘Ash

"عن عبد الله بن عمرو بن العاص، قال: "إِن رَجُلٍ سَأَلَ رَسُولَ الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أيْ اَمْسِلْمِيْنَ خَيْرٌ؟ قَالَ: «مَنْ سَلِبَ اِمْسِلْمِيْنَ مِنْ لِسَانِهِ وَيدِهِ»"


e. Hadith as told by Ahmad from Sa’îd bin Zaid :

"عن سُعîد بن زَيْد قد سمعت النبي صَلَّى الله عَلَيْهِ وَسَلَّمَ يقول: "مَنْ ظَلَمَ مِنْ اَْْرِِْ شَيْئًا فَإِنَّهُ نُطَوَّقُهُ مِنْ سَبْعِ أَرَضٍ شَيْئًا" فَإِنَّهُ يُلَوَّـحُهُ مِنْ سَبْعِ أَرَضٍ شَيْئًا"

Meaning: Sa’îd bin Zaid said, “I heard the Prophet SAW spoke: ‘Who commits cruelty to the earth even along only one span of the hand, then he
shall be burdened by seven layers of the earth.” (H.R. Ahmad).

f. Hadith as spoken by Abu Dawud and al-Tirmidzi from Sa’id bin Zaid:

عَنْ سَعِيِّ بْنِ زَيْدٍ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ أَحْيَا أَرْضًا مَيِّتَةً فَلَهُ وَلَيْسَ لِعِرْقٍ ظَالِمٍ قَلَّةً يَحْرُرُهُ » رَوَاهُ أَبُو دَاوُدَ وَالْتِرْمِيْدِي

Meaning: Sa’id bin Zaid told of the Prophet SAW who has spoken: “He who has toiled an ownerless land, than such land shall be his right, and no right shall be given to dishonest venture.” (H.R. Abû Dâwud and al-Tirmidzi).

g. Hadith as told by Jâbir bin ‘Abdillâh:

عَنْ جَابِرِ بْنِ عَبِيدِ اللَّهِ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ أَحْيَا أَرْضًا مَيِّتَةً فَلَهُ بَِِا أَجْرٌ، وَمَا أَكَلَتِ الْعَوَافِ فَلَهُ بَِِا أَجْرٌ» رَوَاهُ النِّهَائِي

Meaning: Jâbir bin ‘Abdillâh of the Prophet SAW who has spoken: “He who has toiled a land that has gone unused shall receive blessing (pahala). And when any of such work is eaten by a wild animal, then he shall receive blessing (pahala).” (H.R. al-Nasâ’i).


الضَّرَرُ يُزَالُ

Meaning: “All harmful and useless things must be abolished.”

الضَّرَرُ لََ لِيُزَالُ بِالضَّرَرِ

Meaning: “A harmful and useless thing cannot be substituted for (another) harmful and useless thing.”

دَرْءُ أَلْفَابِ مُقَّدِمٌ عَلَى حُلْبُ أَلْسَنَالْلَّهِ

Meaning: “Preventing harm brought upon by an unlawful deed shall take precedent over the pursuit of benefit.”

تَصْرُّفُ الإِمَامِ عَلَى الرَّعِيَّةِ مَنُوطٌ بِالْمَصْلَحَةِ

Meaning: “The policies of the imam (government) over the affairs of the people shall be for the prosperity/benefit of the people.”

TAKING INTO ACCOUNT: 1. The opinion of al-Syâthibi in al-Muwâfaqât fî Ushûl al-Syari’ah, volume II, pages 198-199:
Meaning: Understanding the intent of the Sharia (Allah SWT), it is that the extent of obedience or sin is dependent on the extent of the harmful effect or (conversely) the benefit that has been brought upon. It can be derived from the Islamic Sharia that the benefit comes from the five articles of dharuri as acknowledged in every rule, and that harm are the issues that impede them.”

2. Opinion of Syihâbuddîn ibn Idrîs ibn 'Abdur Rahmân, in al-Furuq, Volume III, page 94:

فَإِنَّ الشَّرْعَ خَصَّصَ الْمَرْتَبَةَ الْعُلْيَا مِنْ الْمَصَالِحِ بِالْوُجُوبِ وَحَثَّ عَلَيْهَا بِالزَّوَاجِ صَوْنًا لِتِلْكَ الْمَصْلَحَةِ عَنْ الضَّيَاعِ كَمَا خَصَّصَ الْمََْاسِِِ الْعَظِيمَةَ بِالزَّجْرِ وَالْوَعِيِِ حَِْمًا لِمَادَّةِ

Meaning: Islamic Shariah Islam verily upholds the pursuit of benefit for the people as an obligation, and exert control through various prohibitions to safeguard such benefit. Likewise, Islamic Shariah looks at major harmful effects as forbidden and a threat, to be prevented and keep from occurring.


وَكُلَّمَا قَوِنَتْ الْوَسِيلَةُ فِ اَْْدَاءِ إلََ الْمَََِِْْةِ كَانَ إثُْْهَا أَعْظَمَ مِنْ إثِْْ مَ ا ن َقَصَ عَن ْهَا.

Meaning: When the cause that brings harmful effect is strong, then the sin becomes greater and exceeds the sin resulting from a minor cause.

4. Opinion of Muhammad ibn Ahmad al-Fasiy, in al-Itqân wa al-Ihkâm, Volume II, page 105:

أَنَّ كُلَّ مَنْ أَتَّلَفَ شَيْئًا فَوَجَبَ عَلَيْهِ ضَمَانُهُ بِإِتْلََفِهِ فَإِنَّهُ مُطَالَبٌ بِإِخْلََفِهِ فَإِنْ كَانَ المُتَّلِفُ (بِالَْْتْحِ) مِنْ ذَوَاتِ اَْْمْثَالِ فَيَضْمَنُ مِثَّلَهُ، وَإِنْ كَانَ مِنْ ذَوَاتِ الْقِيَمِ ضَمِنَ قِيمَتَهُ.

Meaning: All persons who cause damage must bear the responsibility, and is demanded to provide restitution. If the object that is damaged has a similar counterpart, then he shall make replace with such similar counterpart. And if the object can only be valued with its price, than he
shall replace according to such price.


Meaning: Direct damage caused in any circumstances shall create an obligation on the part of the offender to be liable for such damage, even when the commission of such deed has not been through recklessness or without deliberation. If damage is for a reason, the offender shall be liable if the cause was with recklessness or deliberation. And if the act was committed without recklessness or deliberation, then no obligation of liability exists.


7. Fatwa of the Ulama Council of Indonesia Number 2 of 2011 on the Environmentally Friendly Mining Operations.


10. Result of workshops, field visits, meetings and assessment of the Fatwa Commission Team working in conjunction with the Ministry of the Environment and Forestry over the period from 31 March to 10 June 2016.

11. Opinions, recommendations and inputs developed during the Fatwa Commission Session of the Ulama Council of Indonesia during its Plenary Session on 27 July 2016.

HAS RESOLVED

TO ESTABLISH : FATWA ON THE LAW REGARDING THE BURNING OF FORESTS AND LAND AND THE CONTROL THEREOF

Firstly : General provisions
In this fatwa, the following terms shall have the meaning as ascribed to them:

1. Forest is a unit of ecosystem consisting of an area of land made up of natural resources dominated by trees as an integral and inseparable part of the environment.
2. Land is an inland expanse of ecosystem external to a forest that is utilized for economic enterprise, agricultural activities and/or people’s plantation.
3. Burning of forest and land is a deliberate act of human that causes forests and land to be set on fire.
4. Control of forest and land fire is the prevention, mitigation and management of fire.

Secondly : Legal Provisions

1. The burning of forests and land that can cause damage, pollution, harm to other persons, adverse health effects, and other harmful effects, is religiously forbidden (haram).
2. Facilitating, allowing, and/or deriving benefit from the burning of forests and land as referred to in item 1 is religiously forbidden (haram).
3. Burning forests and land as referred to in item 1 constitute a crime and the offender is punishable based on the extent of the damage and impact rendered.
4. The control of forest and land fire as referred to in the general provision is mandatory.
5. The utilization of forests and land is in principle allowed, subject to the following conditions:
   a. formal rights for such utilization must be acquired
   b. license for utilization must be obtained from the appropriate authorities in accordance with the prevailing regulations
   c. utilization must be for the positive benefit of the people
   d. utilization must not cause damage and adverse impact, including damaging the environment.
6. Utilization of forests and land that is not in line with the requirements set forth in paragraph 5 is religiously forbidden (haram).

Thirdly : Recommendations

1. The national as well as the local governments should:
   a. harmonize the regulations related to the utilization of forests and land to avoid overlaps;
   b. disseminate information on the applicable laws and norms related to the use of forests and land through various approaches, including religious based approach through the involvement of religious leaders;
   c. provide sustained education to the public regarding the
use of forests and land through various approaches, including public education and outreach and religious sermons;

d. empower communities by reinforcing the concept of social forestry and facilitating the preparation of forest and land area without using fire;

e. provide environmentally friendly technology;

f. establish equitable policies with regard to the issuance of licenses to utilize forests and land to the public;

g. control forest and land fire by building synergy among the relevant institutions/agencies;

h. conduct strict and fair enforcement of the law against perpetrators of forest and land fire that may cause damage, pollution, harm to others, harm to public health, and other adverse effects, whether involving individuals or corporations.

2. Businesses should:

a. comply with every law and regulations concerning the utilization of forests and land;

b. conduct community empowerment, particularly for communities living around forests and land, to further their prosperity;

c. ensure the conservation of the environment;

d. provide human resources and facilities to control forest and land fire;

e. procure appropriate environmentally friendly technology for the preparation of land clearing.

3. The community should:

a. conduct constructive measures to prepare forest and land area without setting fire;

b. conduct measures to prevent and mitigate forest and land fire in accordance with the applicable laws and regulations;

c. actively participate in monitoring for and preventing the practices of burning forests and land that may cause damage, pollution, harm to others, harm to public health, and other adverse effects.

4. The government, businesses and the communities should undertake expedited environmental preservation through post-fire reforestation and restoration.

**Fourthly**

**Concluding Provisions**

1. This fatwa shall come into effect on the date of its affirmation, on the condition that should there be any amendment required, it shall be amended and rectified as necessary.

2. To procure that every Moslem and persons are informed of this fatwa, it is called upon to all parties to disseminate the same.
Affirmed in: Jakarta
On: 22 Syawal 1437 H.
27 July 2016

ULAMA COUNCIL OF INDONESIA
FATWA COMMISSION

Chairperson, 

Secretary,

PROF. DR. H. HASANUDDIN AF, MA. 
DR. HM. ASRORUN NI’AM SHOLEH, MA.