

APPRAISAL OF THE NEXUS BETWEEN ISLAMIC LAW AND ENVIRONMENTAL PROTECTION

Sani Abdul-Aziz, LL.B, LL.M, Ph.d

ABSTRACT

Environmental protection is one of the important issues of protection in Islam. Thus, mankind is enjoined to always show care for their environment in a proactive manner. There is a definite purpose behind the creation of different species, be it animals or plants or other organisms. It should reflect on the relationship between all living organisms and its environment and to maintain the ecological balance created by Allah. Protection of the environment is essential to Islamic belief, hence mankind has the responsibility to ensure safe custody of the environment. Protection of environment under Islamic jurisprudence reflects a positive image about Islamic law and how it embraces every matter the mankind faces on earth. This is what gives Islamic jurisprudence on environmental principles the status of validity that achieves happiness and prosperity for its members in this world and the hereafter. There have been huge failures from the part of the Muslims generally to make meaningful contributions to the solutions towards environmental issues, despite availability of verses in the Qur'an and the Sunnah. Different facets of the environmental issues and protection prescribed in the Qur'an and the Sunnah have been examined herein. The paper has also discussed and identified areas within Islamic law that not only encourage mankind to care for the environment but enforce them to act on it. In the end, it is suggested that Muslim jurists should propose a mandatory environmental protection law to be adopted and used by Muslims in their communities, because it is an essential part of the responsibility of mankind to protect environment as they are always considered as custodians and guardians of the environment.

Keywords: Environment, Protection, Mankind, Islamic, Vicegerent, Qur'an, Hadith

1 INTRODUCTION

Environment signifies the sum total of all external conditions and influences affecting the development and life of organism¹. Concern for the environment does not stop at merely protecting it from all forms of pollution: water, air, food, atomic radiation, etc. Rather, it goes beyond that, to regulating social behaviour, preserving personal and public rights, establishing social justice and securing human dignity. This is due to the fact that man by his very constitution is made up of more than 30 elements derived from the natural environment². In order to guarantee the continued supply of fresh air, uncontaminated food, unpolluted water and other provisions of life for humans and other living creatures in the universe, and plants, a harmonious balanced and integrated approach by the human, as the architect master of creation is fundamentally essential. Muslim jurists put this into practice, by imposing civil liability or responsibility on those causing personal or public injury to others in life, body or wealth. Hence, they ruled that a doctor is liable for failure to perform his duty in treating the patient, a contractor is liable for the damages arising from his negligence in performing what he agreed to; a vehicle driver is liable, if he throws up dust or mud, soiling a pedestrian's clothing while speeding, let alone crashing into, them³. For instance, man in his pursuit of his greed to maximise profit and attain economic growth has polluted the land, air and water by deforestation, industrial waste spillage, release active chemical waste. This has resulted in the destruction of the animal population both in water as well as in the sea, due to the destruction of their natural habitat⁴. The culpable destruction by humans of forests by

* Sani Abdul-Aziz, LL.B, LL.M, Ph.d is a Lecturer with Faculty of Law, Nigeria Police Academy, Wudil, Kano State. Phone Number: 07038244445; Email: saniabdulaziz777@gmail.com

¹ Mohammad Hammond, Environmental, Ecology and Islam, Insight, New South Wales: Islamic Foundation, 1990, Vol. 5:3, p.19.

² Abdul Hadi Skinner, Environmental; Harmony – Islamic Dimensions, Insight, New South Wales: Islamic Foundation, 1990, Vol. 5:3, p.25.

³ Dr Abdel Salam *Mansour al-Shiyuwi*, Compensation for Environmental Damages within the Scope of General International Law, *Dar al-Kutub al-Qanuniyah* and *Dar Shatat li al-Nashrwa al Barmajiyat* 1427AH/2006CE, p.284.

⁴ Hammond, (n1).

burning, the exhaust gases emitted from their cars, industries etc has increased the level of carbon dioxide more than is being utilised by plants for photosynthesis, creating the appalling problem of the greenhouse effect.⁵ This, consequently, has resulted in an extreme rise in temperature and global warming, giving rise to devastating floods and scorching draughts in many places in the world today. Aggression and war spurred on by greed for power, motivated by blind national interest and political agenda have brought about unspeakable miseries and have ravaged the environment beyond recognition. The list of imbalanced handling of the earth and its resources, from the destructive use of technology or irresponsible handling of its facilities goes on and on, and many thinktanks, including the environmental groups, are engaged in serious efforts, not only to create awareness and collective consciousness among people about the problem but also to devise legislative measures by which further damage to the environment can be averted⁶. These surroundings, or the environment encompasses several aspects, namely, the natural environment, industrial environment and social environment and everything that surrounds the human being, comprising elements, circumstances, things, or events that influence him, either negatively or positively.

This article, therefore, attempts to reveal aspects of the attention given by Islamic jurisprudence to the environment; it highlights the depth of the link between Islamic law objectives and environmental issues and protection; it equally contributes to solving the problems suffered in reconciling Islamic law objectives and environment issues.

⁵ Skineer, (n2).

⁶ Dr. *Muamar Rateb* Abdul – Hafiz, International Law of Environment and the Phenomenon of Pollution, 1st edition, *Dar al-Kutub al-Qanuniyya*, 2021, CE, p.175

2 HISTORICAL EXAMINATION

Man and nature are creation of Allah. It follows that these two entities are created through a set of procedure and are willed to subsist in accordance with the order that fixed by Allah. Consequently, man and nature by creation are governed by the law of nature which enables them to orderly function and perform their assigned roles as the two basis components of Allah's creation, i.e their intra behaviour to be in harmony with the order of the universe⁷. Nevertheless, at the level of inter behaviour between man and nature, man has been created with the ability to behave or misbehave, while the latter is created subservient to the farmer.

Reflecting on the history of care for the environment, it may be noted that the environment is old, as ancient as mankind itself. The first environmental incident was Adam's son murdering his sibling, and then not knowing what to do with his brother's corpse, until Allah sent a crow to teach him how to deal with the corpse⁸. Since that time, the issue of environment has grown little by little commensurate with the incremental growth and progress of human life⁹. It is only natural that over many decades in time, environmental problems were quite limited; life was quite easy and simple, while the pace of human growth was no cause for concern; natural resources in most lands were sufficient and mostly exceeded the needs of the population. It was not out of the ordinary that Egypt, for example, during Pharaonic times reached a peak in wealth and natural resources, to the extent that the Glorious Qur'an described in the words of Allah the people of Pharaoh:

“So we removed them from gardens and springs. And treasures and honourable station.”¹⁰

⁷ *Sumaniya Quasim*, Man in Harmony with Nature Insight, New South Wales: Islamic Foundation, 1990, Vol. 5.3; p.23.

⁸ Dr. *Maged Raghed Oghleh*, *Qanun himayat al-biy'ah fi'daw'al-Shariah* (Environment Protection Law in Light of the Shariah) Dar *al-kutub al-Qununiyyah*, 2012 CE, pp.521-526.

⁹ Ibid, p.526.

¹⁰ Chapter 26: verses 57-58. The Noble Qur'an.

Furthermore, ancient Egyptian archaeological sites, such as the Pyramids, Abu Simbel Temple in South Luxor, the Valley of Kings in Luxor, and others are testimony to a high level of environmental awareness; surviving for thousands of years to this day, defying all elements of ruin and loss.

Greek civilization played an important role in environmental science; the Greek Scholar and Philosopher, Hippocrates, authored a book titled '*Abr al-ajwa' wa al-miyah wa al-amakin*' (on Airs, waters and places). He understood the influence of these three elements on living creatures especially the human being. Aristotle and his disciples also played a significant role through in their works of natural history¹¹. Perhaps, his most renowned work in this domain is *kitab al-haywan* (History of Animals). Indeed, numerous Greek Scholars exerted mammoth efforts in the area of science of fauna and Flora¹².

The extent of interest in the environment in ancient times is illustrated by the choice of location for towns. Ibn Khaldun comments:

“...know that towns are the fixed abode adopted by nations when they achieve that desired luxury and its means, preferring indolence and tranquility, and turn to selecting places for settlement. As these are for permanent residence and accommodation, it is imperative to consider repelling harms by protecting from their precursors, procuring benefits, and facilitating amenities. In regards to protection from harms, consideration must be given to erecting a barrier of walls encircling all its homes, and that these are sited on the most defensible of places, either on top of a rocky crag, or encircled by sea or river, and cannot be accessed except by crossing a bridge or dyke, so that it is difficult for the enemy to reach, and its defence and fortification is thus multiplied.

¹¹ Oghleh (n8).

¹² Youssef al-Qarawi, Ri'ayat al-biy'ah fi shariati al-Islam (care for the environment in Islam's legislature) 2nd edition, Dar Shuruf, 1427AH/2006CE, pp.234.

Consideration must also be given to protection from Divine afflictions, with pure air for protection from disease... as for procuring benefits and facilities to the land, consideration must be given to matters like water; such as the place being on a river, or nearby abundant, pure water springs... Also for the amenities of cities, consideration must be given to good pasture for their grazing animals, as the permanent dweller is in need of reproducing animals for offspring, udder, and mount, and these must have pasture...though must also be given to farms... Also, consideration of proximity to sea to ease access to vital goods from distant lands... Also to be considered for coastal settlements located on the sea, is that they be positioned on a mountain, or nestled within a nation endowed with a large population that comes to their rescue if attacked by enemy raiders...”¹³.

Concern for the environment, in all its dimensions, represent one of the areas of work relating to development and social cohesion, the necessity to restore the effective and key role of compensation for harm, and in the event of physical or financial injury, or what is called applying penalties, manifesting in both aspects of compulsion and deterrence, these function together to regulate behaviour, preserve rights, ensure duties are performed and eliminate contention and hatred. Without doubt, all this requires concerted effort in the domains of legislation, and religious and cultural instruction, the desired outcome being well-being of world and religion and well-being of life for all human and living creatures¹⁴.

The care afforded to the environment by Islamic law is demonstrated in the numerous civilizing institutional bodies provided by the jurists.

¹³ Ibid, pp. 235-236.

¹⁴ Ibid, pp. 238-240

Khilafah - The Caliphate

This is where and how the caliphs, and their appointed governors and assistants, showed personal concern for the environment. Umar B. Khattab (may Allah be pleased with him) encouraged one of the companions to plant a tree on his land, and Umar b. Khattab took part in planting. Umar b. Khattab was consistent in advising the members of Umma (community) about care and gentleness in treating animals and encouraged the revival of mawat (dead land). Also Ali (may Allah be pleased with him) who ruled that the land of Khareb in Kufah was to be treated as dead land¹⁵.

Qada – the judiciary

The judiciary is another basis upon which environmental law is institutionalised under Islamic law, where the judge could issue a sentence or verdict on the basis of ta'azir (self imposed penalty) on who abused the environment.

Hisbah – the doctrine of upholding community morals

The institution of supervision of public rights and morals, which played a substantial role in supervising, guidance, control and correction, and intervened in many social, economic, and moral matters.

Waqf Khayri - charitable endowment

The institution of waqf khayri (charitable endowment). This is based on continuous charity in perpetuity, where a person set aside an asset, stipulating that the earnings generated from it are to be given in charity, and to fill gaps in people's lives. Indeed, there are some philanthropists who established trusts to care for stray dogs.

¹⁵ Al-Hamid, A. Exploring the Islamic Environmental Ethics: Islam and the Environment (Institute of objective studies, 1997) New Delhi, pp.39-69.

Zakat – obligatory charity

The institution of Zakat (obligatory charity) on wealth exceeding a specified threshold: Zakat performed its effective role of treating the problems of the poor, the destitute, defaulting debtors and travelers in need. It is well known that the problem of the three enemies; poverty, disease and ignorance is considered to be the most complex of problems standing as an obstacle to caring for, and manifesting excellence towards the environment¹⁶.

However, attention to the environment in its different aspects did not represent a source of concern for humanity; the situation changed radically following the industrial and technological revolution that brought a significant change in human beings' treatment of natural wealth and resources¹⁷. Excessive exploitation of these resources led to depletion, "impoverishing life on this earth, and upsetting the fine balances in the natural infrastructure of the planet; the pace of desertification increased due to neglecting agriculture in the plains; waves of destructive flooding resulted from deforestation of mountains; chemical substances were used arbitrarily, while water resources were drowned in human and industrial waste. Hence, underground water was polluted, poisons leached into the ground; marine wealth dwindled and the balance relating to marine creatures was disrupted in many parts of the sea, while gas emissions led to a greater proportion of poisons in the air, leading to acid rain, which impacted the rain cycle, until the resulting drought became one of the most prominent problems in a large number of countries¹⁸.

Global interest in the necessity to protect the environment came to the fore from the second half of the 20th century, manifested in approximately 130 international agreements; yet, the complaint still stands regarding the deterioration of environmental affairs for many reasons¹⁹.

¹⁶ Ibid, pp. 72-74

¹⁷ Ibid, pp. 73-74

¹⁸ Ibid, pp. 75-76

¹⁹ Ibid, pp. 77-78

3 THE DOCTRINE OF KHALIFAH – MAN’S VICEGERENT

Among the most important concepts when it comes to Islam and environment is that of a vicegerent. Mankind is considered as a vicegerent on the earth. The word term khalifah is defined as one who takes over a position, a power, a trust and who holds it reliably and in harmony with Allah²⁰. Literally, khalifa means to succeed or to replace a person either due to his absence or his incompetence, or his death, or as an honour to the successor. The term khalifah vicegerent originates from the word khalafah. But in the context of the Qur’an here it signifies the position of human as the dwellers and occupiers of the earth who will build a civilization on earth and inhabit it. Therefore, mankind by virtue of his creation is the vicegerent of Allah²¹. Khalifah should not break a rule or violate the trust Allah. This principle of khalifah is found in the Qur’an where Allah says: ‘For He it is who has appointed you vicegerent over the earth, and has exalted some of you over others in rank that He may try you in what He has bestowed upon you’²². In another verse, Allah tells the Angels: “I am about to place a vicegerent on earth”²³. A khalifah is also subject to observation as the Prophet (SAW) said in a Hadith: “Verily, this word is sweet and appealing, and Allah placed you as vicegerent therein: He will see what you will do. So, be careful of (what you do in) the world²⁴.” This position demands that man should never cause corruption on earth or misuse its resources over which he is given power and authority. This is evident from the provisions of the Qur’an.

First, nature and its resources are bounties from Allah to man. “Do you not see that Allah has subjected to your use all

²⁰ A., Lubis, Environment Ethics in Islam, (Cross Boundaries, 1992) p.11

²¹ Shahibuddin Laming, Knowledge, Khalifah and Amanah in Islam, (Selangor, Ms Mega, 1995) pp. 33-34

²² Chapter 6: verse 165. The Noble Qur’an.

²³ Chapter 2: verse 30. The Noble Qur’an

²⁴ Sahih Muslim: Book 53 Hadith 25

things in the heavens and on the earth and has made his bounties flow to you in exceeding measures, seen and unseen”²⁵.

Secondly, man is expected to appreciate the bounties of Allah and never to wrong them. “It is Allah who created the heavens and the earth and sent down out of heaven water wherewith he brought forth fruits for your provision. And He subjected to you the ships to run upon the sea at His command, and He subjected to you the rivers, and He subjected to you the sun and moon constant upon their courses, and He subjected to you the night and the day, and gave you of all you asked Him. If you count Allah’s blessings you will never number it. Surely the human being is a great wrongdoer, very ungrateful”²⁶.

Thirdly, to enable man to rightly use Allah’s bounties and to subdue the forces of nature and to explore its sources for his use, Allah has given him the faculty of foresight and wisdom – capacity to acquire knowledge of manipulating nature for his use. “He taught Adam all the names of the creatures in the universe”²⁷.

The concept of a khalifah is similar to that of Amanah (trusteeship) imposes a moral and profound responsibility on man to ensure the care and protection of other living species and should never be misused, that is why Allah said to Prophet (AS) Dawud: “O Dawud, we did indeed make you a vicegerent on earth, so judge you between men in truth; nor follow you the lust, for it will mislead you from the path of Allah”²⁸.

It is a test of the amanah that mankind ensure that all future generations have access to the actual resources available. Similarly, man must also ensure that all the other hiring creatures on the planet have an equal right to benefit from these resources²⁹.

²⁵ Chapter 31: verse 20. The Noble Qur’an
²⁶ Chapter 14: verses 32-34. The Noble Qur’an
²⁷ Chapter 2: verse 33. The Noble Qur’an
²⁸ Chapter 38, verse 6. The Noble Qur’an
²⁹ Shahibuddin Lamus (n20)

The Concept of Tauhid

Tauhid in Arabic means attributing oneness to Allah and describing Him as being one and unique, with no partner or peer in His essence and attributes. The Arabs say Wahid, ahad and Wahid, all meaning one. Allah is Wahid, meaning that He has no rivals or peers in anyway. So, Tauhid means knowing Allah is one, with none like unto Him. Whoever does not acknowledge Allah in these terms and does not describe Him as being one with no partner or associate does not believe in Tauhid³⁰. With regard to the Shariah definition of Tauhid, it means believing in Allah alone as Lord and attributing to Him alone all the attributes of lordship and divinity. It may be defined as follows: believing that Allah is one with no partner or associate in His Lordship, divinity or names and attributes. The word Tauhid and its derivatives are used with this meaning in the Qur'an and Sunnah.

For instance: Allah says:

“Say (O Muhammad): He is Allah, (the) one (Ahad), Allah –us-Samad (Allah – the self sufficient master, when all creatures need, (He neither eats nor drinks). He begets not, nor was He begotten. And there is none co-equal or comparable unto Him”³¹.

“And your Allah (God) is one Allah (Ilahun wahidun) (God-Allah), La llaha illa Huwa (there is none who has the right to be worshipped but He), the Most Gracious the Most Merciful”³².

“Surely, disbelievers are those who said; ‘Allah is the third of the three (in a Trinity). But there is no llah (God) (non who has the right to be worshipped) but one llah (illahun wahidun) (God-Allah). And if they cease not from what they say, verily, a painful

³⁰ Muhammad Noor Ibrahim, *The Islamic Discipline for Fortification of Faith*, (Malaysia, Syarikat Huda, 2002) P.9

³¹ Chapter 112: verses 1-4. The Noble Qur'an

³² Chapter 2: verse 163: The Noble Qur'an

torment will befall on the disbelievers among them”³³.

There are many similar verses in the Qur’an which reiterated on the unity and divinity of Allah. There are also many Hadith which affirmed the meaning of the testimony that there is no god but Allah. It is narrated that Ibn Abbas (may Allah be pleased with him) said; when the Prophet (peace and blessings of Allah be upon him) sent Mu’adh Ibn Jabal to Yemen, he said to him:

“You are going to people from among the people of the Book, so let the first thing to which you call them be belief in Allah alone (Tauhid). If they accept that, then tell them that Allah has enjoined on them five prayers everyday and right. If they pray then tell them that Allah has enjoined on them Zakah from their wealth to be taken from their rich and given to their poor. If they agree to that then take it from them but avoid the best of people’s wealth”³⁴.

However, the concept of Tauhid plays a paramount role in creating order and consistency in a Muslim’s thinking as well as his behaviour. Some of its general impacts on the environment. The belief of a Muslim about the knowledge of Allah both secret and open of things perpetually makes him to what is good and avoid what is wrong. This kind of awareness definitely saves him from irresponsible and vicious use of nature and its destruction. Man envisioned with Tauhid world view is duty bound to live in harmony with the environment because he and the whole universe are here to glorify the oneness of Allah. The Qur’an gracefully portrays this harmony.

³³ Chapter 51: verse 73. The Noble Qur’an

³⁴ Sahih Bukhari 7372 and Sahih Muslim 19. In Sahih Muslim, it is narrated from Ibn Umar (may Allah be pleased with him) that the Prophet (peace and blessings of Allah be upon him) and: “Islam is built on five (pillars) I believe that Allah is one, establishing regular prayer, paying Zakah, fasting Ramadan and Hajj; more so, in some versions of the Hadith of mu’adh quoted above it says; “you will come to some people from among people of the book so when you come to them, call them to bear witness “that there is no god except Allah and that Muhammad is the messenger of Allah. See al-Bukari, 1992.

“The seven heavens declare His glory and the earth too and those who are therein; and there is not a single thing but glorifies Him with His praise but you do not comprehend their glorification”³⁵.

Accordingly, every creature and element of the environment has an assigned role to play; whose loss and extinction if not remedied is bound to result in environment crisis³⁶. This also saves the Muslims from narrow mindedness, human prejudices, self-centredness and pursuit of selfish interests because he looks upon everything in the world as belonging to God to whom he himself belongs. This attitude tremendously affects his decisions when dealing with sources of nature to integrate the physical with the spiritual and maintain the equilibrium between celestial and terrestrial demands of life and to be sensitive to the natural environment³⁷.

The Doctrine of *al-Amanah* – Trustworthiness

Amanah is one of the most basic buildings in interacting with Allah, human, environment and self. It is the basic foundation of human social relations. The word *al-Amanah* was derived from the word Al-Amin, it refers to someone who feels secure from the treatment of other’s violation of his rights. The Qur’an has mentioned *al-Amanah*, where it stated.

“Truly, we did offer *al-Amanah* (the trust or moral responsibility or honesty and all the duties which Allah has ordained) to the heavens and the earth, and the mountains, but they declined to bear it and were afraid of it (i.e afraid of Allah’s Torment). But man bore it. Verily, he was unjust (to himself) and ignorant (of its results)”³⁸.

This verse explains the rejection of *al-Amanah* given by Allah to the heavens, the earth and the mountains. They are all concerned with their inabilities to take on *al-Amanah* and fear

³⁵ Hammond (n1)

³⁶ Hammond (n1)

³⁷ Hammond (n1)

³⁸ Chapter 33: verse 72. The Noble Qur’an

of causing treacherous that cause them to be punished later. *al-Amanah* in this verse refers to the practice of devotion and religious obligation that must be implemented where it also implies reward and sin³⁹.

This is because *al-Amanah* was also derived from the word *al-iman*. Hence, whoever preserves the trust granted by Allah, Allah will then preserve his faith. The difference between man and heavens, the earth and the mountains is that the man is willing to take *al-Amanah i.e al-marifah* and *al-tauhid*, while the others are not able to do it.

To defend and preserve of *al-Amanah* properly are the basic characteristics of the Angels, the Prophets and the Messengers and the people of *taqwa* (piety, fearing Allah). *al-Amanah* for leaders is to perform in *Da'awah* (preaching of Islam) in order to chasten the unjust and protect the rights of Muslims and orphans. The Islamic jurists and scholars preserve *al-Amanah* by teaching Islam to the society. Parents are entrusted to keep their *al-Amanah* by providing education for their children. *al-Amanah* for imam who lead a congregational prayer is someone who is spiritually free from *fasiq* (disobedient to Allah), Major sin and does not sustain the minor sins. This is because Imam is like a delegate that helps others. Thus, surely he should be one of the best in the community⁴⁰. Allah had said:

“Verily! Allah commands that you should render back the trusts to those, to whom they are due, and that when with justice, verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is ever All-Hearer, All-Seer”⁴¹.

A Person who gives *al-Amanah* to an unauthorized person will also be held accountable, in which Imam al-Ghazali told us

³⁹ Laming, Knowledge Khilafah and Amanah in Islam, (Beirut, Dar al-Fikr, 2008), p.71

⁴⁰ Andi, M. Z., The Concept of Trust in Islamic Management from Maqasid Shariah Corner (properly care), prosiding seminar pengurus an Islam: the Arah permantapan Ummah, dalam Alim and Irdha Mokhtar dan Zulkefli Aini, Jabatan Pengajian Dakwah dan kepimpinan, fakulti pengajian Islam, UKM, Bangi, Selangor, 2015.

⁴¹ Chapter 4: verse 58. The Noble Qur'an

the story of a Bedouin man who reprimands a “Sultan”. He informed the Sultan that there were people around the Sultan who were more concerned about the world. So, he advised the Sultan to be careful when granting al-Amanah to them in doing something because the Sultan would be held responsible for his nonchalant nature in granting al-Amanah. Imam al-Ghazali also presented a Hadith which showed that every man was responsible for al-Amanah executed by them⁴². The Prophet (peace and blessings of Allah be upon him) said:

“Ibn Umar said, I heard the messenger of Allah SAW says: “All of you are shepherds and each of you is responsible for his flock. An Imam is a shepherd and he is responsible for those in his care. A man is a shepherd in respect of his family and is responsible for those in his care. The woman is a shepherd in respect of her husband’s house and is responsible for those in her care. The servant is a shepherd in respect of his master’s property and is responsible for what is in his care. All of you are shepherd and each of you is responsible for his flock”⁴³.

However, people will be asked about the whole practices they have done. Whatever Allah sets His commandments and prohibitions on man, man will be asked whether he does it or vice versa. He will be rewarded for the obedience and punished for disobedience he has done. Even on the Day of the Judgement the limbs will answer the questions of Allah⁴⁴.

5. ISLAMIC LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION

Islam, as religion has provided all the essentials of life as well as all the natural resources a human being needs in order to realize purposes such as contemplation and prayer. The Qur’an and Sunnah provide the moral foundation for Islamic

⁴² Al-Ghazali, H. M., *Bidayat al-Hidayah*, Maktab al-Buhuthwa al-Darasat, (Beirut, Dar al-Fikr, 2008), p.333

⁴³ Al-Bukhari, 2000

⁴⁴ This position is explicitly stated in the Qur’an chapter 36:65 that “That Day shall We set a seal on their mouths. But their hands will speak to us, and their feet bear witness, to all that they did”.

law. The human activity that is focused on understanding the Qur'an and the Sunnah is known as fiqh (Islamic jurisprudence) apart from the Qur'an and Sunnah, the other sources of Islamic law that are known are Ijma (consensus of Muslim jurists) as well as the Qiyas (analogical deduction). The jurists have established a number of principles to study Shariah which are the principles of Islamic jurisprudence. Islamic jurisprudence presents a system of diagnostic questions that allows scholars to test an Islamic environmental ethic for the way it frames environmental problems, discloses practical solutions and sets the terms for appropriate policy jurisdictions⁴⁵. As far as the Islamic jurisprudence is concerned, it demonstrated itself into a variety of rules, regulations and institutions that defined standards for Muslim behaviour and includes environmental law⁴⁶. Many verses of the Noble Qur'an are replete with mention of environment from several perspectives.

6. ENVIRONMENTAL ISSUES AND PROTECTION IN ISLAMIC LAW

Islam forbids wasting of resources and destroying the environment. The Prophet (peace be upon him) ordered the Muslims not to cut trees during the war. He emphasised the conservation of the destruction. Therefore, conserving the environment is a religious duty of every Muslim as well as obligation, and not optional matter. The exploitation of a particular natural resource is directly related to accountability and maintenance of the resource.

Protection of Plants

Apart from the living organisms that constitute important component of environment, plants are also among. Plants are playing important role in the universe, because they facilitate the proper environmental conditions for man. It is obvious that animals are the source of protein for human well being, they provide skin, for, wool and fibre for clothes: aside from being an invaluable source for daily consumption, plants also have a

⁴⁵ Al-Damkhi, A. M., Environmental Ethics in Islam: Principles, Violations, and Future Perspectives, International Journal of Environmental Studies, 2008, 65(i), pp. 11-31

⁴⁶ Ibid., pp. 31-34

fundamental role in providing fresh air, protecting against flash floods and providing greenery for recreation⁴⁷. They also protect water supplies as well as nurturing millions of species of animals. The principles of Islamic law indicate more of an encouragement to plant trees or the prohibition of cutting tree for an unnecessary reason. For instance, in a Hadith, the Prophet (peace and blessings of Allah be upon him) once said: “No Muslim who plants (trees) and from their fruits the human beings or the beasts or birds eat, but that would be taken as an act of charity on the Day of Resurrection”⁴⁸. In another Hadith, the Prophet (peace and blessings of Allah be upon him) said: “There is none amongst the Muslims who plants a tree or sows seeds, and then a bird, or a person or an animal eats from it, but is regarded as a charitable gift for him”⁴⁹.

There are other Ahadith of the Prophet (peace and blessings of Allah be upon him) which encourages the undertaking of any action that will benefit the environment around man as well as productive on this earth. This is clearly explained in another Hadith which states: “If the final hour comes while you have a palm-cutting in your hands and it is possible to plant it before the hour comes, you should plant it”⁵⁰. This Hadith epitomizes the principles of Islamic environmental principles⁵¹. Another aspect which falls within the class of ijma (consensus of the jurist) was the ruling made by the first caliph, Abu Bakr, while sending an expedition to the byzantine empire, that, “do not destroy palm trees, do not burn houses or fields of wheat, never cut down fruit trees and kill cattle only when you need to eat it”⁵².

The Noble Qur'an exemplified the obligation of not to cut trees. Allah says:

⁴⁷ Ibid., p.53

⁴⁸ Sahih Muslim: Book 22, Hadith 10.

⁴⁹ Sahih Bukhari 1071

⁵⁰ Sahih Muslim: Book 51, Hadith 22

⁵¹ Dien, M. I., Mu Izz al-Din, and Izzidien, M., The Environmental Dimensions of Islam, (James Clarke & Co; 2000) p.45

⁵² Ibid., pp. 53-54

“Whenever you have cut down of (their) palm trees or left standing on their trucks it was permission of Allah and so He would disgrace the defiantly disobedient”⁵³.

It’s quite evident from this verse that Allah is condemning people who cut down trees or uproot trees without just cause. It is clear from the Hadith which was narrated by Jabir that: “the prophet used to stand by a stem of a date palm-tree (while delivering a sermon). When the pulpit was placed for him we heard that stem crying like a pregnant she-camel till the Prophet got down from the pulpit and placed his hand over it”⁵⁴. In this Hadith, it is shown that trees are living being as well and to always reflect on them as one of the many signs of Allah’s creation. There is the need for the application of the verses of the Noble Qur’an and Hadith quoted, because it is obvious that man cannot survive on earth without plants.

Protection of Animals

In the Noble Qur’an, Allah has mentioned animals as part of His creatures on the earth. Allah says:

“There is not an animal on earth, nor a bird that flies on its wings, but they are communities like you”⁵⁵.

The Noble Qur’an further describe the relationship of man with animals and other species, to the extent some chapters in the Qur’an are named after animals including chapters such as “An-Naml” (The Ants), “An-Nahl” (The Bees) and “Al-Ankabut” (The Spider).

More so, man has certain responsibilities towards animals and he will be held accountable on the Day of Judgement for how those animals are treated. Animals are symbol of Allah’s creation as well. Allah says:

⁵³ Chapter 59: verse 5. The Noble Qur’an

⁵⁴ Sahih al-Bukhari 1084

⁵⁵ Chapter 54: verse 28. The Noble Qur’an

“Do they not see the birds above them spreading and closing their wings? It is only the Lord of mercy who holds them up: He watches over everything”⁵⁶.

Perhaps, there are several Ahadith of Prophet (peace and blessings of Allah be upon him) in respect to treatment of animals. For instance, the following Hadith exemplify this position:

“Whoever is kind to the creatures of Allah, is kind to himself”⁵⁷

“The companions asked, “O messenger of Allah, is there a reward in doing good to these animals? The Prophet replied: “There is a reward in doing good to every living thing”⁵⁸

Islamic law forbids the killing of animals without just causes. This is emphasised in another Hadith, where the Prophet (peace and blessings of Allah be upon him) said:

“If without good reason anyone kills a sparrow: or a creature lesser than that even, the living creature will put his complaint to Allah on the Day Judgement, saying: ‘So-and-so killed me for no purpose’”⁵⁹.

The Hadith quoted above emphasized on the importance of caring for the wellbeing of animals as well as other species and linked with the well being of mankind generally. In another relevant Hadith, the Prophet (peace and blessings of Allah be upon him) praised the people who are seeking for knowledge and stated that “he who follows a path of Jannah (Paradise) easy to him. The Angels lower their wings over the seeker of knowledge, being pleased with what he does. The inhabitants of the heavens and the earth and even the fish in the depth of the oceans seek forgiveness for him”⁶⁰. The significance of this hadith is viewed from an environmental perspective that a

⁵⁶ Chapter 67: verse 19. The Noble Qur'an

⁵⁷ Sahih al-Bukhari 1557

⁵⁸ Sahih al-Bukhari 599

⁵⁹ Sahih al-Bukhari 725

⁶⁰ Jami al-Tirmidhi: 1:147

person who is knowledgeable is fully aware of everything around them including the rights of animals⁶¹.

Saving Water

Water is known as the liquid that descends from the cloud as rain, forms streams, lakes and seas, and is a major constituent at all living matter and that when pure is an odourless, tasteless, very slightly compressible liquid oxide of hydrogen which appears bluish in their layers, freezes at 0°C and boils at 100°C, has a maximum density at 4°C and a high specific heat, is feebly ionized to hydrogen⁶². Water is mentioned in numerous verses of the Noble Qur'an and described as the source of life. All species including mankind are reliant on water for survival. The Noble Qur'an explained the importance of water as a vital part of the environment. Allah says:

“We made from water every living thing”⁶³

Muslims are encouraged to reflect on the importance of water in the Noble Qur'an. Allah says:

“And have you seen the water that you drink?”⁶⁴

In another verse, Allah says:

“Allah sends down water from the sky and by it brings the dead earth back to life. There is certainly a sign in that for people who hear”⁶⁵.

These verses are meant to show mankind need to appreciate and recognise Allah's blessings He has bestowed on mankind in order for him not to violate those blessings. There is an Islamic legal principle that states that “prevention of damage and corruption before it occurs is better than treatment after it

⁶¹ Foltz, R., *Animals in Islamic tradition and Muslim cultures*, (one world publications, 2014), P.48.

⁶² Merriam-webster <http://www.merriam-webster.com> accessed on 24/03/2022

⁶³ Chapter 21: Verse 30. The Noble Qur'an

⁶⁴ Chapter 56: Verse 68. The Noble Qur'an

⁶⁵ Chapter 16: Verse 65. The Noble Qur'an

occurs” or “the averting of harm takes precedence over the acquisition of benefits”⁶⁶

The application of this principles shows that since water is vital for the continuation of life in its various forms, there is an obligatory duty on Muslims under Islamic law to preserve and conserve it⁶⁷. Hence, any such action that impedes or damages the environment and social function of water will in all likelihood lead to the destruction of life itself and therefore in contradiction to the Islamic juristic principle of: “What leads to the prohibited is itself prohibited”⁶⁸. Aside the environmental and social function, water also has religious function of purification since Muslims are expected to be clean and pure when they face their Allah in prayer.

Protection against nuisance

There is a nuisance that distorts the environment and disturbs its peace and weakens the ears, exposing it to deafness sometimes, such as: the hum of planes, sounds of cars, factory engines, the buzzing of fans and air conditioners, and the whistling of the radio and television. Skin, muscle contraction, and adrenaline rushes into the bloodstream, where severe tension occurs. To curtail this’ aspect of environment matter, Islamic law has laid down some guiding principles based on the following Qur’anic verse and the Hadith of Prophet Muhammad (peace and blessing of Allah be upon him). The Qur’an stated that:

“And be moderate (or show no insolence) in your walking, and lower your voice. Verily, the harshest of all vases is the braying of the assess”⁶⁹.

The above verse, therefore, laid the principle that making a loud noise is unethical, rude and impolite. There is also the Hadith that shows that whenever the Prophet (peace and

⁶⁶ Al-Damkhi (n44)

⁶⁷ Bagader, A, A., EL-Sabbagh, A. T, MA Al-Glayand and Mufti Samarran, Environmental protection in Islam, 2nd edn (sand Arabia Mepa) available online at: <<http://www.islamset.com/env/>> accessed on 17th/03/2022

⁶⁸ Ibid.

⁶⁹ Chapter 31: verse 19. The Noble Qur’an

blessings of Allah be upon him) sneezed, he used to cover his face with his hand or with his cloth so as to shut up his voice therewith⁷⁰. This is a clear teaching that the Prophet (peace and blessings of Allah be upon him) has taught his followers the law on noise pollution. Moreso, it is prohibited to inflict harm on others by disturbing their quiet. This is an established principle of Islamic law, found in the Hadith which stated: “harm must neither be inflicted nor reciprocated”⁷¹.

Protection of Roads and Public Facilities

It is indeed clear that public places and places of sitting such as shade and the likes, are the places most frequently visited by people. Therefore, mankind has been warned against polluting them in particular, because that would harm people on the one hand, because they are places that are indispensable to them, and loving curses on the doer on the other hand. Mu’adh bin Jabal (may Allah be pleased with him) narrated that Prophet (peace and blessings of Allah be upon him) said: “Beware of three things which provoke cursing relieving oneself in watering-places, in the middle of the road, and in the shade”⁷². There is no doubt that polluting these places is more harmful than others, as many people are found, here and the harm will afflict more people, so the warning was repulsive, describing the act as a fortified place to curse and insult people, because a normal healthy behavior repels that, in addition to polluting the environment. This can be compared to someone who smokes in public halls and buses and public places, because it creates harm and damage in places frequently visited by people, spoiling the environment and causing oneself to be cursed.

Protection against Blocking the Wind from Neighbour

It has been made clear that fresh air is a person’s right to smell, and it is not permissible to block it from him under any circumstances. The Prophet (peace and blessings of Allah be upon him) said, addressing the neighbour: Do not shelter him in the building, so the wind will be veiled from him except with

⁷⁰ Sunan al-Tirmidhi, Vol.2, p.103

⁷¹ Sunan Ibn Majah, Vol.2, p.39

⁷² Sunan al-Tirmidhi, Vol. 1, P.256

his permission”⁷³. This Hadith is the basis of the principle guiding neighbour, an indication that the air is a human right and it is not permissible to withhold it from him except with his permission, and the sun’s rays are attached to that because it is more important in some countries, places and seasons. Air and the sun are among the elements of the natural environment, and it is not permissible to neglect them, and if blocking the wind from the appropriate that he does not put trash in front of his house, or raise the volume of the radio, the recorder and the television, to annoy him with noise, and not open the smoke vents of the bathrooms and kitchens in his house. All these fall under his saying “harm must neither be inflicted nor reciprocated”⁷⁴.

7 CONCLUSION

The general misconception is that environmental issues protection is new phenomena under Islamic law. This paper, among others, aimed at disproving the misconception. It has been shown that long before the principles of environmental law were developed under the English law, the principles of environmental protection had been derived from the Noble Qur’an and the Sunnah. In this paper, how animals, plants, water, roads and public facilities ought to be treated was explained, because they are all creations of Allah. It further revealed aspects of the attention granted by Islamic jurisprudence to the environment, it highlighted the depth of link between Islamic law objectives and the environmental issues.

However, it is found that mankind is a vicegerent of Allah. It is therefore, pertinent to support any project that is undertaken for environmental protection, because as Allah’s vicegerents, mankind is answerable to Allah to maintain his environment. Therefore, people should protect the environment and conserve the natural resources. Maintaining the balance of the natural resources is the only way to guarantee survival. There is also the need for collective support for environmental advocates in their drive to save not only endangered animal

⁷³ Sunan al-Tirmidh, Vol.2, P.107

⁷⁴ Sunan Ibn Majah, Vol. 2. P.39

species, water, and plants but most important of all, the human race and their various ethnicities, because to cooperate in pursuit of mutual interest is a universal obligation on Muslims.