

ISLAMIC ENVIRONMENTAL JURISPRUDENCE AND CONSERVATION PRACTICES IN MALAYSIA

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Abstract: Faith Based Initiatives (FBI) seemed to be the focus in efforts of controlling environmental problems. This study revisits the theoretical framework of Islamic jurisprudence regarding environmental conservation. Characterized as divine law, Islamic environmental jurisprudence covers three essential aspects: eco-theology, ethics and laws. Looking at the fundamentals, this study found that the environmental laws in Malaysia are already in compliance with Islamic law. However, when examined in depth, there are still loopholes that could be addressed. This study argues that the gaps in the existing laws could be filled through the integration of the principles of Islamic law, which are in line with the current needs concerning sustainable utilization and precautionary approaches.

Keywords: Islamic law, Conservation, Faith-Based Initiative, Eco-Theology, Environmental Ethic, Malaysia

1. Introduction

Problems pertaining to the environment began to surface during the industrial revolution, as early as 1780. The industrial revolution enhanced human capacity to affect and alter environmental stability and changes in technology interact with socio-economic changes in leading economic nations. The existence of macro changes is also seen through the levels of industrial development and its relationship with environmental problems. Freeman and Louca argued that the West

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had gone through four industrial revolutions since the 18th century and has now entered the fifth.¹ The first revolution resulted in the loss of forests, the second and third revolutions caused pollution problems. Global warming is the result of the fourth revolution. These industrialization processes spread from the west to the parts of the world, especially to developing nations including Malaysia.

It is undeniable that industrialization in the West may be made a model for economic development but to emulate the model blindly would risk continuing or worsening the pollution already initiated. We need a balanced development between economy and the environment. When we prioritize physical development without considering spiritual development, we will see the environment as a form of profit and conservation as anti-development. According to Nasr, the destruction of nature occurs when we see the use of nature in the beneficial aspect. In actual fact, nature should be viewed through the eyes of religion, not through the secular viewpoint that divides religion. Economic progress, which is based on logic without religion as its pillars, will only drive humankind to monopolize the wealth derived from nature and eventually contaminate nature. Through religion, humankind will be able to see the purity of nature as a trust from God, which simultaneously will affect the purity of the relationship with the nature created by God.² Northcott also states that industrial civilization needs new strategies for contemporary conservation in protecting the ecosystems. We need to enhance the community's sensitivity to apply ethical and spiritual values in protecting the environment among individuals.³

Based on the above scenario, environmental crisis has close relations with spirituality. Religion plays an important role in heightening spirituality. Linking religion to conservation efforts is increasingly gaining the attention of researchers from various religions worldwide. The development of such initiatives indicated that religious values may become the key element of future conservation programs. One of the striking similarities across all the religions in the

¹C. Freeman, and F. Louca, *As Time Goes By: From the Industrial Revolution to the Information Revolution*, Oxford: Oxford University Press, 2001, 306-308.

²S. H. Nasr, *Man and Nature: the Spiritual Crisis of Modern Man*, Chicago: ABC International Group, 1997, 81-106.

³M. Northcott, "Buddhist Rituals, Mosque Sermons, and Marine Turtles: Religion, Ecology, and the Conservation of a Dinosaur in West Malaysia," *Journal for the Study of Religion, Nature and Culture* 6, 2 (2012), 196-214.

world is the nature spirituality aspect which stresses on the environmental ethics such as mutual respect and love.⁴ Sherkat and Allison have pointed out that religion may also produce stewardship elements in monitoring the environment and being a support for pro-environment orientation.⁵ However, those values are seen as inappropriate in the practical sense.

The fact that the Islamic conservation theory has been built from traditional practicality⁶ indicates that it is dynamic and flexible with the influence of locality (*urf makan*) and changing times (*urf zaman*). This long traditional experience should be exemplary in addressing the contemporary environmental legal problems as completing instead of competing with one another. Islam advocates a conservation approach that takes into consideration the Islamic aspects of *shariah* and *akhlmaq* (ethico-legal) as well as *aqidah* (theology). Accordingly, it is not only capable of binding individuals morally and spiritually, it is also capable of binding them legally. However, it is ironic that annually, Muslim countries ranked a low position in the Environmental Performance Index (EPI).⁷ This scenario manifests that in theory, the Islamic approach is wonderful but in contemporary practice, it is not so. To enhance its practicality, this study seeks not only to restructure its theoretical framework to meet current needs but also to try to identify the gap into which the Islamic principles can be effectively integrated into the existing environmental law.

2. Religious Values and the Conservation of the Universe

Based on earlier studies, the perspective difference between Islam and the West on environmental matters is in terms of the value system of the ethics and spiritual aspects. The West tends to look at the environment as a profitable resource for humankind as described in the secularism theory which does not take into consideration the inter-relationship concept in terms of its function and structure amongst the environment,

⁴S. A. Bhagwat, “The Role of Religion in Linking Conservation and Development: Challenge and Opportunities,” *Journal for the Study of Religion, Nature and Culture* 5, 1 (2011), 47.

⁵D. E. Sherkat and C. G. Ellison, “Structuring the Religion-Environment Connection: Identifying Religious Influences on Environmental Concern and Activism,” *Journal for the Scientific Study of Religion* 46, 1 (2007), 71-85.

⁶Lutfallah Gari, “A History of the Hima Conservation System,” *History and Environment* 12, 2 (2006), 213-228.

⁷Yale University, “Environmental Performance Index 2014,” <<http://epi.yale.edu/epi/country-rankings>> (6 June 2014).

humankind and God. According to Nasr, the emergence of the Western humanism theory led to humankind chasing for material gains through controlling, conquering and polluting the environment.⁸ Pressing reasons of economic welfare, the modernists' insatiable hunger for western technology propelled by the industrial revolution and rapid western technology innovation pace all have covertly contributed to the destruction of the environment.

The importance of ethics in the conservation of nature was alerted by the western world in the late 19th century in United States of America (USA) so as to value the moral rights of non-human species living in this world and the alert focused on stipulated areas for the conservation of nature. This scenario demonstrates that ethical values began to influence public policies of the USA in promoting protection of nature. The western conservation began once again to look at traditional conservation, which emphasized on ethical and spiritual values as important elements in conservation strategy.⁹ It is not any surprise that in the West during this period studies on the concept of 'deep ecology' were widespread in assimilating spiritual values in the environmental policy.¹⁰

3. Guiding Principles of Islamic Environmental Jurisprudence

Studies by early Muslim environmentalists stressed on aspects of axiology and deontology, which are based on Islamic theology (*aqidah*) to intensify religious spirituality. Nasr,¹¹ Khalid,¹² Hamid,¹³ and Llewellyn¹⁴ had presented basic principles on Islamic eco-theology which are the principles of monotheism (*tawhid*), principles of creation (*sunan al-kawn*), principles of moderate (*wasat*), balance (*tawazun*) and symmetry (*mizan*) [Quran (38):36; (53):49; (80):8; (36):36; (55):7-9], and

⁸Nasr, *Man and Nature*, 81-106.

⁹Bhagwat, "The Role of Religion," 45-46.

¹⁰Bron Taylor, "Earth and Nature-Based Spirituality (Part I): From Deep Ecology to Radical Environmentalism," *Religion* 31, 2 (February 2011), 175-193.

¹¹Nasr, *Man and Nature*, 81-106.

¹²Fazlun M. Khalid, "Islam and the Environment" in *Encyclopedia of Global Environmental Change*, Chichester: John Wiley & Son, 2002, 332-339.

¹³Abd al-Hamid, "Exploring the Islamic Environmental Ethics" in A. R. Agwan, ed., *Islam and Environment*, Kuala Lumpur: Synergy Book International, 1997, 55-59.

¹⁴Othman Abd ar Rahman Llewellyn, "The Basis for Discipline of Islamic Environmental Law" in *Islam and Ecology*, Cambridge: Harvard University Press, 2003, 185-248.

the principles of responsibility which includes the concepts of stewardship (*khalifah*), trusteeship (*amanah*) as well as worship (*‘ubudiyyah*).¹⁵ These principles project the principles of Islamic ecology, which emphasize “the rule of the universe” (*sunnatullah*) [Quran: (33):62; (10): 5, (21):16-17; (55): 3-9, (6): 6, 38] and the mutual relationship between the environment, humankind and God (*hablu min Allah wa hablu minannas*) as mentioned by Ziauddin Sardar¹⁶ in his seven ecology principles. Among the seven ecology principles are the holistic principles, interactive principles between organism, ecosystem and population and the recycle principles to maintain the natural functions of living systems so as to optimize biosphere continuity. Hence, a balanced ecology in Islam includes internal and external elements.

Islam emphasises the aspect of environmental ethics based on moral concept (*akhlaq*). For example, in relation to ethics on the maintenance of the environment during war, Prophet Muhammad prohibits his followers from felling trees and burning vegetation unless it is truly necessary to do so. Besides Islam instilled commendable characteristics among the believers. With the basic attitude of being grateful for everything (*qana’ah*) that has been bestowed, Islam teaches humankind to use nature’s resources as and when needed, but never to be wasteful and to be thankful for the enjoyment granted and not to be greedy in wanting material things. Islam also promotes cooperation (*ta’awun*) with one another and not to do anything solely for one’s own interests. The characteristics of affectionate and good personal conduct or piety (*ihsan*) instil love among humankind and the environment and prevent acts of violence against each other and against the environment. By way of the concept of piety, humankind will be more cautious in every action as they uphold the principle that God is always observing how we behave be it openly or covertly. Greed and avarice (*takathur*) are characteristics that will erode welfare practices as these characteristics will encourage exploitation/overconsumption and wastage (*israf/tabdhir*) and will further threaten sustainable living.¹⁷

¹⁵Ibrahim Abdul Matin, *Green Deen: What Islam Teaches about Protecting the Planet*, USA: Berrett-Koehler Publishers, 2010, 12-14.

¹⁶Ziauddin Sardar, ed., *The Touch of Midas: Science, Values and Environment in Islam and the West*, Manchester: Manchester University Press, 1984, 152-162.

¹⁷Abd al-Hamid, “Exploring the Islamic Environmental Ethics,” 55-59.

Environmental laws were legislated through resources from religious laws including Islam.¹⁸ The Islamic values such as being universal (*syumul*) and balanced (*mizan*) are instilled early and eventually form the knowledge research trend which focuses on the suitability of the sustainable development policy. A review of the policy and international laws revealed that they are in line with the Islamic approach. It is a universal view among Muslim scholars that Islamic principles were already found in secular laws, and which are currently being enforced, therefore how can Islam help in protecting the environment today?¹⁹

Islamic jurists began to re-evaluate practical mediums in *shariah* that can be brought forward as a framework for the management of environment sustainability. Among matters discussed are, firstly, land management such as conservation zones (*hima*), inviolable zones (*harim*), revive and reclaim land (*ihya' al-mawat*) and endowment (*waqf*); and secondly, water management in terms of tidiness-dirtiness (*taharah-najasah*) and water rights (*haq al-irtifaq*). The laws being enforced must be done through the practice of supervision in social affairs institutions (*hisbah*) based on the 'do the good things; avoid the bad things' (*amar ma'ruf nahi munkar*) and public policy (*siyasah*) concepts.²⁰ So it is with the standard applications of good interest (*masalahah*) or corruptive interest (*mafsadah*) that is pivoted by the ultimate objectives of Islamic law (*maqasid al-shari'ah*) which stems from the importance of caring for the religion (*din*), life (*nafs*), descendants (*nasl*), property (*mal*) and the mind ('*aql*). All of these five elements are actually tightly entwined with the concept of the maintenance of the environment whereby all of the above will not be properly maintained if the environment is not cared for.²¹

All of these approaches are incorporated in forming Islamic jurisprudence (*fiqh*) theory that is renamed as Islamic environmental jurisprudence (*fiqh al-bi'ah*).²² Yusuf al-Qaradawi provided epistemological

¹⁸Alexandre Kiss and Dinah Shelton, *International Environmental Law*, New York: Transnational Publishers, 2004, 1-11.

¹⁹A. Sharom, "Islam and the Environment," Paper Presented at National Seminar on Comparative Law, National University of Malaysia, 12-13 June 2001.

²⁰Sharom, "Islam and the Environment," 3-5.

²¹F. M. Mangunjaya, "Developing Environmental Awareness and Conservation through Islamic Teaching," *Journal of Islamic Studies* 22, 1 (2011), 36-49.

²²Zahari Mahad Musa, "Fiqh Al-Bi'ah: Prinsip Interaksi Manusia Dengan Alam Persekitaran" (Fiqh al-Bi'ah: The Principle of Human Interaction with Environment), *Jurnal Syariah (Shariah Journal)* 18, 1 (2010), 1-24.

evidence from the Quran for environmental conservation. First: growing and greening (*tashjir* and *takhdhir*) (Quran, 6:99; 32:27; 27:60); second: cultivate and fertilize (*i'mar* and *taskhir*) (Quran, 11:61); third: cleanse and decontaminate (*tanzif* and *tathir*) (Quran, 5:6; 2:222; 9:108); fourth: conserve biodiversity (Quran, 31: 20; 16:5; 23:18); fifth: maintain health (Quran, 2:185); sixth: be kind to the environment (Quran, 2:195; 3: 159); seventh: protect from destruction (*fasad*) (Quran, 2:11, 12, 205; 7: 74) and lastly: maintain ecosystem equilibrium (Quran, 67:3; 32:7).²³

4. Global Initiatives in Linking Islamic Jurisprudence and Conservation

The global conservation trend shows the international institutions such as the World Bank, World Wildlife Fund for Nature (WWF) and International Union for Conservation of Nature (IUCN) are progressively promoting religious-based conservation measures. With this approach each individual is believed to be bound by moral and spiritual values in helping to control any form of environmental crisis. Within the last 20 years all religions have re-examined their teachings and beliefs in terms of the global environmental crisis. The World Bank and Alliance of Religion and Conservation (ARC) had cooperated in carrying out a 5-year (2000-2005) research in the South East Asia region, the Latin America region and the African region to view the relations between religion and conservation and to promote cooperation among religions at the international level.²⁴ This effort is an extension of the Assisi Declaration of 1986 that formulated conservation ideas according to the majority of religious perspectives in the world.²⁵

The World Bank has been working with the Indonesian Muslim community through various organizations such as religious leaders and women's organizations. The main achievement of this project is to link the conservation project with the Islamic law under the concept of *hima* (protected area), *harim* (inviolable zone), and *hisbah* (enforcement agency). Another workshop that was also organized for 31 Muslim leaders from various parts of Indonesia with the entire range of Islamic schools (*pesantren*) to enable them to participate in the

²³Yusuf al-Qaradawi, *Ri'ayah al-Bi'ah fi Syari'atil Islam*, Kaherah: Dar al-Syuruq, 2001, 58-152.

²⁴The World Bank, *Faith and the Environment World Bank Support 2000-2005*, Washington: The International Bank for Reconstruction and Development, 2006, 5-40.

²⁵Alliance of Religion and Conservation, *The Assisi Declaration: Messages on Humanity and Nature from Buddhism, Christianity, Hinduism, Islam and Judaism*, Italy: Basilica di S. Francesco Assisi, 29 September 1986.

discussion of the Islamic law on environment. Emphasis is given to the development of the Islamic law on environmental conservation (*fiqh al-Bi'ah*). In Africa, the African Muslim Environment Network was launched in Norway in 2006. The network has developed a website in the local language to distribute the weekly sermons concerning the environment. It also organized a micro-finance package through Islamic endowment (*waqf*).²⁶

In 2005, the World Wildlife Fund for Nature (WWF)²⁷ carried out case studies in 14 nations²⁸ to better understand the relationship between biodiversity protection areas and religious influence and values. It is evident that religion is more significant to biodiversity conservation to specific species (such as the olive trees which are mentioned in the al-Quran) and protected areas (including hills, river, lakes and ponds) which are considered as holy areas or having religious values. In protected holy places in Islamic teachings, for example the "*al-haramayn*" (namely, two protected lands, Mecca and Medina in Saudi Arabia) the uprooting of plants and killing of animals are prohibited. The prophet Muhammad said: "*(Makkah)* is a Land of Prohibition with due respect from Allah until the end of the world. No uprooting of trees, no hunting of animals, no picking of lost goods save to declare to the public of his findings and no grass picking."²⁹ IUCN also promotes widely the *hima* (protected area) in protecting natural resources as the most efficient and oldest conservation system with an experience of 1400 years and embodied in Islamic jurisdiction.³⁰ In the United Kingdom, the Islamic Foundation for Ecology and Environmental Science (IFEES) is among the institutions that are active in spreading the Islamic science of natural resources

²⁶World Bank, *Faith and the Environment*, 16-29.

²⁷N. Dudley, et al, *Beyond Belief: Linking Faiths and Protected Areas to Support Biodiversity Conservation*, UK: WWF for Nature, 2005, 120-126.

²⁸Kenya, Tanzania, Egypt, Lebanon, India, Sri Lanka, Indonesia, China, Mongolia, Europe, Finland, Australia dan Colombia.

²⁹Salih 'Abd al-'Aziz, "*Sahih Muslim*," *Mawsu'ah al-Hadith al-Sharif, al-Kutub al-Sittah*, Riyad: Dar al-Salam li al-Nasyr wa al-Tawzi', 2000, 903-904.

³⁰International Union for Conservation of Nature, "*The Old Ways Are the Best: Reviving Traditional Knowledge in West Asia*" <http://www.iucn.org/about/work/programmes/social_policy/?7779/The-old-ways-are-the-bestreviving-traditional-knowledge-in-WestAsia; http://www.iucn.org/about/union/commissions/wcpa/wcpa_focus/?255/Al-Hima-Revives-Traditional-Methods-of-Conservation-and-Poverty-Reduction> (16 October 2012).

management and establishing networks of Muslim environmental activists worldwide.

5. The Reality in Malaysia: Challenges and Potential Integration

In facing rapid economic development since its independence in 1957, Malaysia enjoyed a vibrant national economy. A large portion of its land and swamp areas have been turned into agricultural and urban development. Malaysia is still undergoing mega physical and socio-economic development processes since about twenty years ago in its effort to spur Malaysia's industrialisation future towards 2020. Malaysia has already had a legal control mechanism even before Independence to ensure the upkeep of the environment. However, contrary to continuous preservation efforts, biodiversity exploitations continue to be a major threat and are gradually but continuously leading to national biodiversity extinction. Other threats include the destruction of the habitat, wildlife poaching and the degradation of fresh water and marine ecosystems due to climate changes and pollution.³¹

Malaysia has gone through three major phases in the development of environmental legislation over the past 50 years. The first phase is the control of pollution, which has prompted the government to enact the Environmental Quality Act 1974 and the establishment of the Department of Environment. The second phase is planned controls on pollution sources that change the environmental management plan from the government *per se* to smart partnerships with the relevant industries. The third phase is across the entire component of domestic and global environment.³² Malaysia is compliant with almost all the guidelines of the United Nations environmental regimes. Malaysia has ratified a wide spectrum of relevant legislations on environment. In fact, the Wildlife Protection Act 1972/WPA '72 was enacted prior to the international environmental policies (the Convention on International Trade in Endangered Species of Wild Flora and Fauna 1973).³³

³¹C. Prip, et al, *Biodiversity Planning: An Assessment of National Biodiversity Strategies and Action Plans*, Yokohama: United Nations University Institute of Advanced Studies, 2010, 153.

³²Z. Ujang, “Warga Bestari Bumi Lestari,” *Budaya Inovasi: Prasyarat Model Baru Ekonomi* (The Culture of Innovation: Prerequisite for New Economic Model), Skudai: UTM Press, 2010, 69-71.

³³I. Komoo and S. A. A. G. Aziz, “Perundangan dan Pemuliharaan Alam Sekitar dan Biodiversiti: Amalan di Malaysia” (Legal and Environmental Conservation and Biodiversity: Practices in Malaysia) in Rosmidzatul Azila Mat

Malaysia has a multiracial population of over 23 million people. With such a varying ethnic composition, a great diversity of religions is prevalent throughout Malaysia. Although the official religion is Islam, freedom of worship is guaranteed by the constitution of Malaysia as stated in Article 11 of the Federal Constitution (FC).³⁴ This religious diversity that is unique to Malaysia provides a great potential for the adoption of the FBI in the rebuilding of the environmental policy. Without sidestepping the advantages of the approach of other religions in conserving the environment, as a first step to instill faith in the environmental legislation, the Islamic approach is seen to have potential, as Malaysia is a Muslim-majority country. The position of Islam in the Malaysian FC is also special compared to the other religions because Islam is the one and only religion and the religion of law mentioned in the FC. However, in the current practice, the jurisdiction of Islamic law is applicable only to Muslims. As such, this study is not intended to create new laws that are applicable only to certain groups, but simply to fill a lacuna and to empower the existing laws through the application of the universal principles of Islamic law in line with current world needs. Hence, it can bind all Malaysian citizens equally in the interest of environmental conservation rather than put them in situations where they would fight for the interests of their own religious superiority.

6. Potential of the Islamic Law for Environmental Law

In Malaysia, the environmental matters do not come under Islamic law but under civil law jurisdiction, pursuant to Schedule 9 of the FC. If it is not under the Islamic law jurisdiction, the questions that arise are whether Islamic law plays a role in the protection of the environment? And, whether or not the existing laws should be Islamized? Or at least be in harmony with the Islamic law regardless of whether it uses the Islamic terms?

As more and more environmental issues surfaced, more laws are enacted. In Malaysia, there are more than 40 laws related to the environment.³⁵ This causes a lot of overlapping jurisdiction of either

Yamin, ed. *Pengurusan Alam Sekitar dan Biodiversiti dari Perspektif Islam* (Environmental Management and Biodiversity according to Islamic Perspective), Kuala Lumpur: Institut Kefahaman Islam Malaysia, 2011, 347-349.

³⁴Malaysia Information, "People and Culture" <<http://www.2malaysia.com/info.htm>> (1 March 2014).

³⁵A. Latiff, "Biodiversity in Malaysia: The Most Undervalued Natural Asset" in *Biodiversity-Biotechnology: Gateway to Discoveries, Sustainable Utilization and Wealth Creation*, ed. Manurung, R., Kuching: Sarawak Biodiversity Centre, 2010, 14.

within the laws or the enforcement agencies. When the laws enacted are too many, it was difficult to enforce but yet they are easily manipulated. Finally, the environmental problems would not be accurately controlled. The question raised here is why the Islamic law (that are categorized as personal law in the FC) should be promoted to Malay-Muslim or integrated into existing environmental law which applicable to all.

In general, the existing environmental laws in Malaysia are in compliance with the international environmental policies as well as with the principles of Islamic jurisprudence. These can be seen on the equivalent worldview to protect, preserve and conserve the environment whether in 1) conserving water which comply with *taharah* (cleanliness) and *haqq al-irtifaq* (water right) concepts such as Water Act 1920 and Water Services Industry Act 2006; 2) preserving land which is in line with *ihya' al-mawat* (reclamation of dead land) principle such as Land Conservation Act 1960 and National Land Code 1965; and 3) protecting biodiversity such as National Forestry Act 1984 (NFA '84) and Wildlife Conservation Act 2010 which has similarity with the *hima* (protected area) approach. The existing laws are even better with scientific information and technical input, though, there are still loopholes that could be addressed. Selected ethico-legal issues have been identified and Islamic law has already outlined the guidelines according to Quranic verses, Prophetic traditions and Islamic jurisprudence for each of the following problems.

6.1. Unsustainable Consumption of Natural Resources and Biodiversity

Nowadays, many species are hunted and harvested in excess for the purpose of economic gain as well as infrastructural development. If excessive hunting and harvesting of biodiversity continues to be done without effective conservation measures, more and more species will perish. In Malaysia, for example the tiger population (Malayan Tiger – *Panthera tigris jacksoni*) is among one of the rapidly dwindling species that is threatened with extinction due to excessive hunting for commercial purposes. In Peninsular Malaysia, wildlife hunting license issued around 19,000 to 34,000 licenses per year by the Department of Wildlife and National Parks, Peninsular Malaysia (DWNPPM). In 2006, the most significant increase is in hunting of 81,524 python exceeds the harvest of 66,683 pieces.³⁶ This may disrupt the symbiosis of the wildlife ecosystem. Hence, the aspect to be taken care of is the

³⁶Department of Wildlife and National Park, Annual Report, 2003-2012, Kuala Lumpur: Department of Wildlife and National Park, Peninsular Malaysia.

equilibrium (*tawazun*) between the amount of licenses issued and the amount of wildlife harvested.

There is also jurisdictional overlap between the WPA '72 and NFA '84 which makes it easy to be manipulated and led to an imbalance of natural resource management. Under the WPA, wildlife reserves are protected areas which are not allowed to be developed but *vice versa* if through NFA.³⁷ Clearly stated in article 74(2) of FC, forests are under the authority and virtual monopoly of the state government, the federal government intervention had no impact. Consequently, protective forest can be developed into productive forest which causes more destruction of biodiversity habitats. This shows human greediness for their insatiable personal material interests blindfold them from the sustainable dimension as mentioned in many verses in the Quran (21: 16-17; 55: 6-7; 28:77 and 23: 18-22) that promote the sustainable use of natural resources and biodiversity to maintain ecosystem (*sunnatullah*). The law of equilibrium and proportion of natural ecosystems (*wasat/mizan/tawazun*) should be followed to avoid greediness/wastefulness (*israf/tabdhir*) and destruction (*fasad*). Each source by the nature of God was not created in vain.

6.2. Application of Precautionary Principle

Prior to the enactment of the Biosafety Act 2007, there is no such law relating to the environment in Malaysia that had adopted this precautionary approach. Essentially, this approach was introduced in the Cartagena Protocol in January 2000. Precautionary approach allows countries to assess risk and prevent the importation of new biotechnology that can negatively impact health and the environment. As the approach is still unfamiliar in the formulation of legislation related to the environment in Malaysia, the issue of inadequacy and loopholes provisions in this law should be immediately addressed, as fast as the rapid development of biotechnology. Even so, there is no clear definition of the precautionary approach in this act. However, this approach is intrinsically relevant for the prevention of environmental degradation and should be applied to all environment-related laws comprehensively. All environmental laws enforced before the Cartagena Protocol shall be revised and amended (if any) by

³⁷Interview with Azmi Bin Johor, Head of Deputy Director, Protected Area Division, DWNPPM, 6 November 2013.

applying this principle. The need to find comprehensive guidelines related to precautionary principles is ever more urgent.³⁸

In Islamic jurisprudence, there are two principles related to this topic. Firstly, *ihhtiyat* (precaution) and secondly *sadd dhari'ah* (blocking of the means) based on the prophetic tradition of ‘prevention is better than cure.’ Further studies on these two concepts are needed. But, principally, the important parts of the two concepts are:³⁹

- a) Avoid doing any activities that can lead to damage
- b) Some things were originally not forbidden but if any of them contain elements that can lead to damage, then they are prohibited.
- c) Using public interest as a way to prevent damage.
- d) Preventive measures must be taken when there are things that can lead to damage.

With reference to the Islamic legal maxim, there are also precautionary principles:

- a) Harm must be eliminated.
- b) Harm cannot be removed by actions that may pose the same degree or even larger degree of harm.
- c) Smaller disadvantages may be incurred in order to avoid the more major disadvantages.

In realizing these efforts, there must be an institution to act as a platform. In Malaysia, also in most parts of the world, it is a reality that religious institution does not make the issue of environment as one of their important agenda, though initial efforts to apply Islamic values have been put into place either by religious institutions and conservation agencies.

7. Reviving Islamic Environmentalism in Malaysia

The Institute of Islamic Understanding Malaysia (IKIM) is devoted to creating awareness and building understanding of several Islamic principles in relation to environmental conservation such as *sunnatullah* (the rule of the universe), *fitrah* (instinctive), *tawhid* (monotheism), *khalifah* (stewardship), *amanah* (trusteeship) and *'ubudiyyah* (worship). Such initiatives can be seen in the establishment of the Centre for Science and Environmental Studies. In order to

³⁸Kwan Khai Hee, “Malaysia’s Biosafety Bill: Throwing Precaution to the Wind?” *Current Law Journal* 5 (2007), i.

³⁹W. Z. W. Hassan, L. Abdullah and S. Man, “Pemikiran Imam Al-Syafi’i Mengenai Sadd Al-Dhara’i’ Sebagai Sumber Hukum” (al-Shafi’i Thought on Sadd al-Dhara’i’ as Legal Sources), *Jurnal Fiqh* 5 (2008), 98-116.

achieve the objectives of this Centre, several efforts have been made, such as organizing the International Conference on Biodiversity and building a network with several local Universities, Religious bodies and Non-Governmental Organizations. In 2013, several activities were held such as roundtable discussions on (1) 'Strengthening the Environmental Education Curriculum and Module: Reviewing and Enhancing Module and Curriculum through Religious Approaches;' (2) 'Environmental Education and Awareness: Participation by the Muslim Community' and A Dialogue between Religions on the topic of 'Conservation of the Environment.'

According to the findings of IKIM, the application of Islamic ethics in environmental conservation requires a balance of indoor (theory) and outdoor activities (practical) to provide disclosure to the public about the reality of what is actually happening to the environment. The promotion of FBI cannot focus only on the upper-classes people through seminars and roundtable discussions, but across all levels of society through the media and selected activities. However, IKIM also views the role of Islam as the provider of ethical values but not to the point of the application of the law.

WWF-Malaysia stated that environmental awareness and education through the religious approach is a new initiative undertaken by this agency even though it has long been introduced in the Declaration of Assisi 1986. One of the problems in educating and disseminating awareness to the public is the lack of Islamic information on conservation ethics among conservationists. Additionally, there is no *fatwa* (Islamic legal opinions) in Malaysia that touches on environmental issues. Furthermore, religious groups also did not have the technical knowledge on environmental conservation.

Therefore, the WWF-Malaysia has collaborated with IKIM on several environmental awareness activities based on Islamic ethics. WWF-Malaysia has identified the protection of turtles in the state of Terengganu in the east coast of Peninsular Malaysia. The WWF-Malaysia sponsored a project to educate fishing communities on the endangered turtle species near to the turtle nesting grounds. In order to engage more Muslim communities in turtle conservation in Terengganu, a one-day event for the *imams* (religious leaders) of local mosques were also conducted to encourage them to deliver the message of turtle conservation during weekly Friday sermons and at other appropriate religious gatherings. The *imams* are trained to include 3 important principles in their sermons: (1) Humans are responsible (*khalifah*) for caring for the environment 'as it is a priceless gift from

Allah’. (2) Environmental disaster (*fasad*) is caused by the ‘irresponsible actions of a proportion of people who destroy this treasured world’. (3) Muslims are not to destroy or pollute the world but instead they ‘must value and care for every gift from Allah’ (*amanah*).⁴⁰

Islamization in Malaysia has generated a series of progressions that are self-reinforcing. From clothing to education policy, from banking to environmental law, almost no sector of Malaysian society has escaped the growing influence of Islam upon the socio-economic and political make-up of the country.⁴¹ Being optimistic towards the feasibility of Islamic principles in environmental laws in Malaysia is not something unrealistic but is constructed based on positive potentials.

However, to relate religion with conservation institutions is not a simple matter as it involves (1) difference in universal views, (2) conflict between identities and (3) attitude and behavior of spiritual leaders which may not be beneficial for conservation. Besides that, differences often occur between secular organizations and spiritual leaders.⁴² Even though Islam is not seen through its legal dimension, it is undeniable to the very least as being a significant religion to provide the comprehensive environmental ethics and thoughts that can bind Muslim followers morally and spiritually. Even though it may seem difficult to integrate Islamic laws in the existing laws due to jurisdiction obstacles and lack of religious awareness, it is not impossible; it just needs strategic phases such as the involvement of religious institutions in environmental activities that promote the Islamic approach to attract Muslim scholars to continuously carry out research in developing an appropriate curriculum for the profession of Islamic environmental law. As a final step, environmental law in Malaysia still has the potential of being in harmony with *shariah* even if it does not use the name of Islam as long as the environment could be sustainably protected.

8. Conclusion

This study has shown that although green technology innovation is rapidly thriving on one hand, environmental problems are increasing at

⁴⁰Northcott, “Mosque Sermons and Marine Turtles,” 205-210.

⁴¹J. P. Abbotta and S. Gregorios-Pippasb, “Islamization in Malaysia: Processes and Dynamics,” *Contemporary Politics* 16, 2 (2010); Azizan Baharuddin, Raihanah Abdullah, Chang Lee Wei, “Dialogue of Civilization: An Islamic Perspective,” *Journal of Dharma* 34, 3 (2010), 301-318.

⁴²Bhagwat, “The Role of Religion,” 44.

an alarming rate on the other. Faith Based Initiatives has become a widespread alternative approach in dealing with environmental harms and this *modus operandi* cannot rely on technological progress *per se*. The cooperation between conservationists and religious leaders in conserving the environment will generate higher sensitivity among the communities. It is necessary to empower religious leaders to educate their followers/religious groups to care for the environment.

The advantages and disadvantages of the Islamic tradition and contemporary law of conservation are complementary. Most environmental laws in Malaysia are already compatible with Islamic principles but are lacking in sustainability principle and precautionary approach. However, there are aspects of conservation that can be integrated with Islamic environmental jurisprudence such as Access and Benefit Sharing (ABS) and Traditional Knowledge (TK) that can be continued in further studies.

Efforts to promote the FBI are still considered as novel or even peculiar whether within the Islamic institution or conservation agencies. There is initiative of promoting the FBI that focuses on the ethical aspect but did not reach the level of application of Islamic law. On the other hand, there is also other initiative that emphasizes the importance of the crystallization of the Islamic law instrument (fatwa for instance) to bind the Muslim community spiritually and legally from continuing the destruction to the environment. This effort however still requires a very high commitment from conservation agencies and religious institutions.

The awareness of the importance of Islamic elements on environmental issues is still at its preliminary stage. Translating the awareness into policies needs the cooperation of various relevant parties. Active involvement of Islamic institutions such as the Department of Islamic Development, the State Islamic Religious Council, the Mufti Department, the Mosques and the Islamic Religious Schools in environmental and conservation programs are still needed. Developing appropriate education curriculum modules and awareness of conservation strategies based on the religious approach is imperative to establish the Malaysian Islamic environmental law.

This research suggests the establishment of the Shariah Advisory Committee at the environmental-related department to monitor the Muslims affairs regarding illegal activities according to Islamic law that can harm the environment. It is hoped also to involve the Sultans (the "Majlis Raja-Raja"/Conference of Rulers) as head of Islamic religious affairs in Malaysia to urge Muslims/Islamic religious council to protect and implement conservation programs more effectively.