

ISLAMIC PRICIPLES ON SUSTAINABLE LAND USE PLANNING AND DEVELOPMENT

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Rapid development globally has caused various environmental problems and impacted adversely on the world's natural resources. The United Nations promoted the concept of sustainable development to overcome environmental degradation arising from poorly planned development activities and exploitation of natural resources. However, the not much progress has been achieved in terms of overcoming environmental problems globally despite committing the efforts and resources. The Qur'an has addressed the need to protect the environment and man is prevented from destroying the earth's resources. This article explores the basic principles governing land use planning and environmental protection derived and practised by the Muslim Jurists as provided by Shari'ah (Islamic Law) and its relevance in achieving sustainable development goals. Manifestation of religious values in the land use planning system is examined via introduction and implementation of the Total Planning and Development Doctrine as a planning guideline in Malaysia as a case study.

INTRODUCTION

Rapid development globally has caused various environmental problems and impact has left adverse the world's valuable natural resources. The United Nations promoted the concept of sustainable development to overcome the environmental degradation arising from poorly planned development activities. However, the environmental problems are still relentless in all countries. Towards this end, this article will explore the basic principles governing land use planning and environmental protection derived and practised by the Muslim Jurists in adhering to the Islamic *Shari'ah* (Islamic Law) and it's relevance in achieving sustainable development goals. Manifestation of religious values in the land use planning system is examined via introduction and implementation of the Total Planning and Development Doctrine as a planning guideline in Malaysia.

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SUSTAINABLE DEVELOPMENT PRINCIPLE

Rapid development globally caused various environmental problems and impact on the world's natural resources unscrupulously. Land development activities are considered to be a major contributor towards environmental pollution especially for river and air pollution. Importing of inappropriate technology to solve local problems, uprooting of traditionally sound environmental practices resulted in natural disasters. Despite all the conservation measures promoted by the contemporary planning system, environmental problems are still on the increase. Along with this measures employed to revert the present situation, religious norms can also be of great importance. It is imperatively demanded that planning should alleviate these problems. This task is intricate and difficult. However, efforts are being made for this. Along with this measures employed to reverse the present situation, religious norms can also be of great importance. Islamic *Shari'ah* principles can also be used as a potential tool to promote sustainable development. Besides *Shari'ah* all the other major religions of the world also requires all development activities to be carried out without causing environmental degradation. Thus, the use of religious values and ethics in promoting sustainable development will be considered.

Shari'ah principles guiding land use planning provided a direction to Muslims to build some of the finest cities, in terms of their physical amenities, and their incredible ability to organise the citizens into a homogenous and integrated society.¹ Most Islamic cities were built on top of many existing layers of local or regional history without affecting the existing civilisation.² Joseph Ernest Renan and William Marçais argued that Islam is essentially an urban religion.³ The pillars of Islam, requires the Muslims to develop a highly specialized and organized social structure through which they can demonstrate their faith.⁴ Muhammad (s.a.w.) himself was instrumental in establishing the City of Madinah, which played an important role in providing sustainable living to the people along with conservation of natural resources in propagating Islam.⁵ The Qur'an and the Prophetic traditions (*sunnah*) do not favour the nomadic Bedouin life.⁶ Early Muslim towns such as those in Maghreb like Al-Fustat, Tunis and Rabat were built to preach the religion of Islam and played the role of Citadel of Faith.⁷ They all were compatible with the environment and its processes.⁸

Urban development has gained prominence in the modern contemporary societies be it western or eastern. Governments of states has been giving serious attention to develop better living and built environment such as affordable housing, recreation, infrastructure development and industries by allocating large portions of their budgets. The rapid development has led to complex transformation in all aspects especially social, economic, technical and political, which has had effected the values and the physical form of the urban and rural areas.

Muslim world may have suffered some drawbacks in terms of development in comparison with the industrial nations in terms of material gains. There are always two sides to a coin. Development will not necessarily bring positive changes nor can we say it is harmful. There are certain developments such as clean water, environmental standards, good sewerage management and many more are essentials. However, harmful effects of development such as indiscriminate land development, cutting off matured trees, clearing hilly land, development near seashore and many more that has caused negative impact on the ecosystem needs to be tackled.

Muslim nations may not have achieved great success in urban development that can be compared with some of the developed nation. However, it's quite intriguing to see how Muslims managed to build some finest cities despite there being no specific verses in the Qur'an prescribing for organizing land use planning and development control. The Qur'an has merely provided broad guidelines in various aspects relating to human conduct. These include areas such as economy, social behaviour, family lineage and relationship, defence and many more that have been instrumental in promoting a comprehensive civilization that has enabled the Muslim nations to thrive on happiness, and success throughout the centuries. The Holy Qur'an provides in *Surah Ali Imran verse 138* to the effect that:

"This is a declaration for mankind, a guidance and instruction to those who fear God".

The Qur'an and Traditions of Prophet Muhammad (s.a.w.) speak of God's design for creation and humanity's responsibility for preserving it. The objective of *Shari'ah*¹⁰ guidelines is aimed at preservation of religion (*al-deen*) in order to achieve spiritual contentment; to achieve physical and mental (*al-nafs*) well-being of man and his descents

(*al-nasab*); mental strength (*al-aql*); descent or lineage (*al-nasab*); and the appropriate way of dealing with all worldly property and wealth (*al mal*).¹¹ This is to achieve the ultimate aim of creating a healthy and virtuous individual, family, society (*ummah*) and eventually an ideal world.¹²

Shari'ah requires man to live in accordance with the teachings of the Qur'an and *Sunnah* to achieve divine grace (*barakah*) for the hereafter. Thus, all development activities planned by man in this world must emphasise on piety (*taqwa*), manifest the oneness of God (*tawhid*), peace and most of all manifestation of humility and humble oneself to the Creator's greatness in all aspects of man's life.¹³ The act of a Muslim revolves very much with his intention for which he is held accountable. Imam Idris Al Azhar in the process of building the town of Fez said his prayers before beginning construction as follows:¹⁴

"Oh my Lord, You know that I don't intend by building this city to gain pride or to show off, nor do I intend hypocrisy or reputation or arrogance, but I want you to be worshipped in it; Your laws, limits and the principles of your Qur'an and the guidance of Your Prophet to be upheld in it, as long as this world exists. Almighty, help its dwellers to do righteousness and guide them to fulfil that. Almighty prevent from them the evil of their enemies, bestow your bounties upon them and protect them from the sword of evil. You are able to do all things."

The objective of *Shari'ah* is clear where it requires man to observe the guidelines laid down, that is the spiritual contentment of man, the physical and mental well being of man, and his descendants, and the correct manner of dealing with property with the ultimate aim of creating a healthy and virtuous individual, family, society and eventually a better universe.¹⁵ These general principles have gained prominence and influenced the Islamic land use planning system. Thus, for a Muslim, the intention (*niyyah*) must be right to arrive at the true goal. Prophet Muhammad (s.a.w.) said: "Everything is according to the *niyyah*." The intention is closely related to the heart (*al-qalbun*) of the Muslim. The town planner must ensure that his activities are organised strategically to comply with the principles of *Shari'ah* to achieve pleasure of God (*maradatillah*). A town planner must not plan with the intention solely to derive profit at the expense of the people, and the environment, as this can cause lack of safety

of the people and degrade environmental protection. God will punish him severely for his bad intention (*mala fide*). He must remember that he is planning for God's vicegerent (*insan khalifah*) and not solely for material gain.

The concept of sustainable development is integral in the land use planning system promoted by *Shari'ah*. Anyone failing to adhere to the principles of *Shari'ah* can expect to be punished in the hereafter even if he escapes any form of punishment on this earth.

In essence, sustainable development is a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development and institutional change are all in harmony and enhance both current and future potential to meet human need and aspirations.¹⁶

The greed of some unscrupulous man who equates development to material wealth has no limits and transgresses beyond the human set limitations. Development of water catchments area into concrete jungles, choked rivers and ridding it off its habitats has led to various natural disasters like flash floods, landslides, climate change, and mud flood causing damages in terms of loss of life, livelihood and property.¹⁷ Why are the environmental problems still persisting despite the introduction of various measures and plans to develop sustainably by the United Nations that received global acceptance? The simple reason as observed by Sayyed Hossein Nasr, is that man in the course of seeking to remove environmental problems brought by destroying the balance between man and nature through further domination of nature.¹⁸

The contemporary planning system that promotes the idea that planning is a purposeful activity, i.e. a deliberate, conscious and striving towards the purposeful end of improving "standards of life", irrespective of the fact that how vague this goal maybe and this is blindly accepted by the general public.¹⁹ Planners often want to provide progress indicators to convince the public of their success.²⁰ The public only reacts when a plan fails in total or partly on the basis that the planner had failed to deliver certain promised material progress or anticipated standards of life.²¹ The land planning and development process guided by the *Shari'ah* is basically different from the contemporary planning system as it guides man to develop by maintaining the harmonious balance between man and his Creator,

man and man and man and the natural environment. The next paragraph will discuss the *Shari'ah* principles promoting sustainable development.

***Shari'ah* Principles for Regulating Sustainable Development**

There are no direct statements on sustainable development in the Qur'an. However, the Qur'anic verses describing nature and natural phenomena outnumber verses dealing with commandments and sacraments.²² Of more than 6,000 verses in the Qur'an, some 750, one eighth of the Book, exhort believers to reflect on nature to study the relationship between living organisms and their environment, to make the best use of reason and to maintain the balance and proportion God has built into His creation.²³ The earth is mentioned some 453 times in the Qur'an, whereas sky and the heavens are mentioned only about 320 times. This provides the basis for the Muslim jurists to formulate guidelines for promoting sustainable development.

The theory influencing the formulation of planning ideology revolves around the religious belief that emphasizes the need for man to understand his role as the Vicegerent of God, entrusted with the task of safeguarding all of God's creation in this world.²⁴ Muslims are required to observe the harmonious relationship between man and man, and between man and the environment to express his subservience to his creator. Land development without compromising the natural resources is an essential element of the *Shari'ah* planning principles ever since the revelation (*wahy*) of the teachings of Islam to Muhammad (s.a.w.). As such it is relatively ancient compared to the concept of sustainable development made popular by the United Nations.²⁵

According to the Qur'an, the creation of the cosmos is a greater reality than the creation of humankind²⁶ but human beings have been privileged to occupy a position even higher than the angels as vicegerents of God on the earth. However, they must share the natural resources with all creations of Gods.²⁷ The *Shari'ah* places the human being in an exalted position of the Vicegerent of God (*khalifah*) on the earth. This position also referred as stewardship comes with the right to assume the task of a trustee and custodian of the earth and all of its contents. This Vicegerency is declared before the creation of the first human being:

"Behold, your Lord said to the angels: "I will create a vicegerent on earth." They said: "Will place therein one who will make mischief therein and shed blood? While we do celebrate Your praises and glorify Your holy (name)?" He said: "I know what you know not."²⁸

In man's capacity as a vicegerent, he is perceived to be the trustee of God on the earth. Man is given the trust (*amanah*) to ensure that he safeguard the rights of the beneficiaries of the earth and its natural resources not only for his own sake but also for the other beneficiaries consisting of all other mankind, including the future generation that has yet to be born.²⁹ Man is not supposed to cause corruption in any form on earth (i.e. the environment). Life on earth entails great responsibilities. It is a test with accountability. It is followed by either reward or punishment. The task of the Vicegerent however, is not absolute and one must be cautious in exercising the powers. Failure to execute his functions effectively will render man liable for punishment in the Hereafter (*akhirah*) though he may have managed to escape any form of punishment in this world

"It is He who has made you (His) vicegerents, inheritors of the earth: He has raised you in ranks, some above others: that He may try you in the gifts He has given you: for your Lord is quick in punishment: yet He is indeed Oft-forgiving, Most Merciful."³⁰

The Islamic world-view indicates that vicegerency on earth forms a test, which includes how human beings relate to the environment. Is it going to be based upon divine instructions, or based upon personal desires and conjectures that might lead to the destruction of our environment?³¹ The present problem faced by the world is basically because man has separated the Divine guidance from his mundane affairs. Therefore, vicegerency is based upon knowledge that enables the human being to be a caretaker of the environment in which he dwells.

"And the earth We have spread out; set thereon mountains firm and immovable; and produced therein all kinds of things in due balance."³²

"With Him are the keys (to the treasures) of the Unseen that no one knows but He. He knows whatever there is on the earth and in the sea. Not a leaf falls but with His knowledge: there is not a grain in the earth's shadows, not a thing, freshly green or withered, but it is (inscribed) in a clear record"³³

Stewardship requires that humans learn to live in harmony with rather than work against nature. That is why reflecting on nature and understanding its inner workings has been made the fundamental basis of knowledge in Islam.³⁴ Man can detect God's signs in all the natural phenomena that surround him and should, therefore, observe them better to understand God's way, which is the Qur'anic term for laws of nature.³⁵

The *Shari'ah* principles prescribes conservation of natural resources so that it will not be depleted by the present generation's use and deprive the future generation (*ummah*); Ensure that the built environment (*al-imarah*) is in harmony with the natural environment and the relationship between the two is designed to be one of balance and mutual enhancement; Ensure preservation of environmental quality by reducing processes that degrade or pollute the environment and to prevent development that are detrimental to human health or that diminish the quality of life; To prevent any development that effects social equality and inequal distribution of earth's resources; Effective participation (*shura*) by all stakeholders in the planning decision making and development control process.³⁶

God created the universe with a specific purpose and for a limited time. The utilisation of natural resources (*ni'matullah* - the gifts of Allah) is a sacred trust invested in mankind; he is merely a manager and not a proprietor, a beneficiary with no right to dispose. The society (*ummah*) has been termed as *ummatan wasatan* (the moderate nation) in the Qur'an, an *ummah*, which avoids excesses in all things. Thus, Muslims in particular have to utilise the earth responsibly for their benefit, honestly maintain and preserve it, use it considerately and moderately, and pass it on to future generations in an excellent condition. This includes the appreciation of its beauty and handing it over in a way that realises the worship of God, and not its value in terms of economic exploitation and selfish profit. The utilisation of all natural resources, such as land, water, air, fire, forests, oceans are considered the right and the joint property of the entire humankind.

Sustainable development can only be achieved if the approach adopted in planning use of natural resources transcends beyond material gains and focuses on human development. Scholars such as Ziauddin Sardar,³⁷ Musallam,³⁸ Yusof Al-Qardhawi³⁹ and Abdel Aziz Duri,⁴⁰ advocated that town planning process must incorporate all

aspects including material and human (both spiritual and physical aspects) development. Aspects of material development encompass development of modern infrastructure and information whereas human development is to focus on providing the environment where a Muslim man can live without compromising his belief and the principles of *Shari'ah*.⁴¹

Relationship between Man and the Creator

In the context of observing the relationship between man and his Creator, man is reminded to observe his relationship with his creator in all aspects of his life. This relationship must be made the focal point of every aspect of man's life in order for man to ensure he protects and maintains the other two aspects. Land planning and development must be organised in a way that it can bring man closer to his Creator. Man must ensure all land development activities are in conformity with the natural laws and not to cause any harm to the environment and natural disasters in order to earn the blessings of his Creator.

Relationship between Man and the Environment

Muslims believe that environmental protection is embodied within the central concept of Islam that is *Tawhid* (oneness of god), *Khilafa* (vicegerency and trusteeship role of man) and *akhirah* (accountability to god in the hereafter).⁴² For many Muslims, it will undoubtedly come as a revelation to know how emphatic the Qur'an is about protecting the environment. The Islamic approach to the environment is holistic. Everything in creation is linked to everything else; whatever affects one thing ultimately affects everything. Man has been distilled from the essence of nature and so is inextricably bound to it.⁴³ The earth's resources land, water, air, minerals, forests are available for our use, but these gifts come from God with certain ethical restraints imposed on the way man uses them.⁴⁴ We may use them to meet our needs, but only in a way that does not upset ecological balance and that does not compromise the ability of future generations to meet their needs.

Islam views the environment as a source of life for not only human beings, but for all living organisms. It is based upon protection, and it encourages revival, construction and development. Allah says, "It

is *He Who produced for you the earth and settled you therein.*"⁴⁵ The *Shari'ah* grants concessions in terms of taxes to those who take the initiative of reviving deadlands, outbacks, and wastelands (*ihya al-mawat*), and Prophet Muhammad (s.a.w.) is also reported to have prohibited the plucking of leaves from any tree except for purposes of medicine, shade, embellishment, and construction. He is also reported to have encouraged tree planting as a constructive practice, saying that even if one hour remained before the final hour and one has a palm-shoot in his hand, he should plant it.⁴⁶

Relationship between Man and Man

The relationship between man and man is required to be safeguarded. Man cannot harm the other and is required to live in harmony with each other. This is the basis of the creation of the society (*ummah*). The *Shari'ah* promotes interdependence between man and expects man to respect the privacy of other individuals. In respecting the privacy of his neighbour, man is required to ensure that any development that he proposes will not be violating the neighbour's privacy. Even the minaret of a mosque is not allowed to encroach and violate the privacy of any adjoining land. The rights of a landowner to develop his land must be exercised cautiously so as not to cause any adverse impact on any existing land use in the neighbouring land. Right of way either public or private is very important as it provides access to public terminal. Muslims are required to ensure in the course of developing their land, they allocate at least minimum width of land to allow right of way and not to cause obstruction.

Man's obligation towards his neighbour is prescribed in the Qur'an⁴⁷ and the Traditions of the Prophet (s.a.w.).⁴⁸ Man is required to do good to fellow mankind irrespective if he is close or far from him. *Shari'ah* requires man to treat his neighbour with equality and just and not to transgress his rights. Based on all these rulings of the *Shari'ah* it's undeniable that *Shari'ah* prohibit man from polluting the environment, which will cause harm to the other man and the surroundings. Man as the vicegerent of God is also entrusted with the duty of protecting the environment for the sake of all mankind.

Prophet Muhammad (s.a.w.) said: *la darar wala dirar fi al-Islam* (*no injury should be imposed nor an injury to be inflicted as a penalty for another injury*). This indicates that no one may inflict harm on

himself and other. Significantly, the harm, according to this maxim, is not only limited to causing harm to human beings but the same is applied to the environment, since harm to it contributes to the spread of, and increase in, diseases and thereby threatens everyone's right to a healthy life. Therefore, according to *Shari'ah*, pollution, which threatens the life and health of others such as infants, children, young and old, and other creatures, is prohibited.⁴⁹

Sustainable Development Institutions in Islam

In the administration of sustainable development institutions, effective conservation of natural resources and protection of the environment are very germane to the activities of such institutions. Islam provides for these institutions in different ways ranging from the economic aspect, social security to proper management of resources in the biosphere, atmosphere and hydrosphere. These resource management institutions were established in line with the true spirit of Islam on sustainable development which is given as: "Do not do mischief on Earth after it has been set in order".⁵⁰ This gives the idea of a rule-based incentive system that must be proactive in its functions. These Islamic institutions for the conservation and sustainable development of natural resources are goal-oriented. Generally, these institutions include *ihya al-mawat* (land reclamation), *al-hima* (management of reserves), *al-haramain* (the two inviolable sanctuaries), *al-harim* (inviolable zones), *waqf* (charitable endowments), *iqta'* (public lands), *ijarah* (leased lands), *bait al-mal* (public treasury) and *hisbah* (encouraging the efficient use of natural resources and avoiding waste in the society). It is appropriate to shed some light into some of the institutions and see how they contribute to the sustainable development of the state.

Reclamation of Land (*Ihya al-mawat*)

Though this concept of reclamation or revival of land has been briefly explained in the previous section, it may still be apposite to shed more light into it by emphasizing on the legal effect and implication of reclaiming a land. As earlier observed, *mawat* lands are uncultivated lands that are given to whosoever reclaims or revives them. Priority is given to the first person who cultivates or demarcates such land over any other person. This type of land tenure was recognised and widely

practiced during the time of Prophet Muhammad (s.a.w.) and continued till the time of Caliph 'Umar ibn Al-Khattab who introduced land reforms. The development of the *mawat* land is the main reason for continued ownership of the land. If somebody reclaims a land and refuses to develop it within a particular period of time, he stands to forfeit the land. This precedent was laid down during the caliphate of 'Umar. The Prophet (s.a.w.) had granted the whole valley of *Aqiq* to Bilal ibn Al-Harith al-Muzni. But he could not bring a major part of it under cultivation. Caliph Umar, therefore, in his reign said to him, "The Prophet (s.a.w.) had not granted this land to you to keep it fallow and withhold it from use by others. So retain as much of it as you can use and return the remainder so that I may distribute it among the Muslims." Bilal b. Harith refused to comply with this advice. Umar persisted in his demand. Finally, except the land which was actually under his (Bilal's) use, Umar (Allah be pleased with them) took away all the land from him and divided it into plots, which were distributed among the Muslims.⁵¹ This is where the three year time frame was introduced. If somebody cannot develop, he cannot hold the land. Therefore, in order to engender sustainable development of privately-acquired lands through *ihya al-mawat*, the government must stipulate a particular time limit before it automatically becomes revoked. This will be better enhanced through planned development of the state. Another *hadith* corroborating this position is where the Prophet was reported to have said: "Unclaimed land belongs to Allah and His Messenger (s.a.w.), then, it belongs to you after me. He who therefore revives an abandoned land owns it. There shall be no right for an occupant after three years".⁵² The three years mentioned in the *hadith* is for someone who refuses to develop such land. In his commentary on this *hadith*, Abdul Qadir Zubair observed:

*The 'Ulama' said that the three years given to the occupant is to allow him an ample time to develop the land and if he fails that will be a cogent evidence of his inability or unwilfulness (sic) to do so. The Shari'ah should not continuously allow him to block the chance of other people who are capable and ready to develop the land. This is to maximize the derivable benefit of the land for the betterment of the community.*⁵³

In the *hadith* where 'Umar revoked the land granted to Bilal, it was reported that the former remarked while revoking the land: "The Messenger of Allah did not grant you the land to prevent others from

inhabiting there but he made the grant to you in order for the large expanse of land to be developed. So, take the part of the land you have the ability of occupying and return the remaining part.”⁵⁴

Inviolable Zones (*al-Harim*)

Declaring certain zones as inviolable is part of land use planning. This is meant to protect natural resources in the environment such as water resources, communal pasture lands, farmlands and certain lands containing resources that are of general benefit to the community. This may include lands containing minerals and other natural resources.⁵⁵ Such lands are to be protected and the benefit derived from them is utilized by the governing authority for public good. So, such lands cannot be reclaimed and alienated. “Surface mineral resources like salt or sulphur, cannot be alienated to individuals because they constitute and form part of the State public domain and as such it is a communal property where everybody have an equal right over it.”⁵⁶ Such communal properties considered under inviolable zones are wells and rivers. The importance of right to water has been emphasized in a number of traditions of the Prophet (s.a.w.).

Charitable Endowments (*waqf*)

Islam encourages individual Muslims to participate in the conservation and sustainable development of natural resources through various gifts, inheritance, and loans. The most important institution of Islamic law in this regard is the charitable endowment, which constitutes the major avenue for private contribution to the public good. The charitable endowments may take the form of a land trust dedicated in perpetuity to charitable purposes such as agricultural and range research, wildlife propagation and habitat development, a village woodlot, or a public cistern, well, or garden; or it may take the form of a fund or endowment for the financing of such projects. The governing authorities may set provisions and standards for such charitable lands and funds, and for the qualifications of their managers, so that the benevolent objectives of such projects may be effectively fulfilled.

Leased Lands (*ijarah*)

The governing authorities have the right to institute the lease (*ijarah*) of state-owned lands or to grant their use or reclamation (*iqta'*

manfa'at al-ard or iqta'al-istighlal) and to specify the kinds of improvements to be undertaken or the crops to be grown, and the management practices and techniques of fanning, building, and so forth, to be employed.

Granting of Titles for Developing Public Lands (iqta')

The governing authorities have the right to make grants (iqta') of un-owned land for purposes of reclamation such as agriculture, horticulture, building, and other kinds of development, so as to channel such developments to suitable locations and away from unsuitable locations.

Administration of Sustainable Development Institutions in Islam

The administration of sustainable development institutions has been part and parcel of Islamic law from the advent of Islam. This crystallized during the reign of the four rightly guided caliphs as a result of the expansion of the Islamic State. Precedents abound in the *Sunnah* and reports that point to this fact and this contributed greatly to the expansion of the State. The economic paradigm in Islamic law under which land use is administered has been played a significant role in sustainable development in the Muslim Ummah. A close study of the Islamic perspective of sustainable development shows that the concept of development is closer to the Islamic concept than the secular perspective.⁵⁷

Lawful Acquisition of Property: A Step Towards Sustainable Development

In order to encourage and engender a holistic development of the Muslim State, Islamic law provides for the lawful acquisition of property which must be put in use judiciously.⁵⁸ If such property acquired can be improved or further developed to harness the usufruct (*manfa'a*) of it for the benefit of the greatest number of the people or the community at large. Land development is an important aspect of this. When a person reclaims a land, he must develop it within a stipulated period. He may forfeit his rights over the land if he does not have the capacity to develop same. The Islamic concept of ownership stipulates that ownership of a property is not an end in itself but a means to an end. To this end, there are certain conditions regulating the acquisition and ownership of property in Islamic law.

These limiting factors are seen through the lenses of sustainable development. In essence, a person can lawfully acquire and own a property subject to the conditions that he exercises his best judgment and discretion with a view of sustaining it and benefitting himself and others with it, develops such property in the best interest of the community with full utilization of the benefit therein, abides by the relevant rules of the *Shari'ah* governing the development of such property, and above all, all steps taken to develop such property must have any negative effect on any other person.⁵⁹

A general principle in the Qur'an is social justice where all lands or any other property whatsoever in the state cannot be given to the rich alone but must be distributed to those who need same.⁶⁰ For the less privileged, the government is required under the applicable law to develop those lands through the *zakat* collection and proceeds for profit-yielding endowment (*waqf*). Therefore, while the rich can own and develop lands allocated to them, the poor will be given some financial incentives from the *zakat* collection for the development of their privately owned land. Hence, land ownership in Islamic law consists of certain complex principles regarding the classification of lands and the difference of opinions among the jurists.

Development of Land as a Condition for Perpetual Ownership

There are classical precedents in the *Sunnah* on the need to develop land in a sustainable manner to benefit the people. Land cannot be possessed for the sake of possession and accumulation of wealth. It must be put into reasonable use through sustainable development. This is where the government in an Islamic state comes in to regulate ownership and use of land. Proper administration of such lands will bring about rapid development of the state. This will invariably boost the economy of the state and improve the standard of living.

The land policy in the state must be channelled towards sustainability of any reform introduced which must be in tandem with the spirit of the Qur'an and *Sunnah*.⁶¹ The Prophet (s.a.w.) introduced land reforms based on divine revelation-cum-inspiration. Meanwhile, as earlier observed, one of the ways through which one can acquire a property is land reclamation. Land reclamation is known as *ihya al-mawat* in Arabic philology.⁶² The underlying principle in *ihya al-mawat* is that any person who revives or reclaims an un-owned

land through cultivation, demarcation, development or otherwise is regarded as the owner of same. He must put the land into beneficial use before it can be regarded as a land privately acquired. Such beneficial use may be for a general benefit or personal benefit depending on the nature of development undertaken on the land. According to Iyad Abumoghli, “*Ihya*’ gives people a powerful incentive to invest in the sustainable use of the land to provide for their welfare and the welfare of their families and descendents.”⁶³ This supposes that land reclamation is mainly for the purpose of development. Though there are no direct verses in the Qur’an that relate to the reclamation of land, the *Sunnah* is replete with legal texts (*nusus*) on the subject matter of land reclamation and the important requirement of development of land which is attached to the condition of ownership.

What Constitutes *al-Mawat*?

In the literal sense, *al-mawat* means a particular land which has no life.⁶⁴ This is the main reason why some English authors have interpreted as “dead land”. However, in the juristic sense, so many definitions have been proffered. Siti Mariam Malinumbay re-amplified this point:

*“The schools of law expressed different views on the definition of mawat lands, that is, Hanafi School, Shafii, Maliki, Hanbali. Among them, only the Hanafi give important emphasis on the location of mawat land and insist that it should be far away from any human settlements to be considered as mawat land.”*⁶⁵

Against the above backdrop, Ibn Qudamah has defined *al-mawat* as a land that has not been cultivated.⁶⁶ In a quite different way, Al-Mawardi defined *al-mawat* as any place (land) which is not inhabited and people are not prevented from residing in it.⁶⁷ These two definitions did not consider the issue of ownership. Another definition given by Abu Yusuf has defined *al-mawat* as a land over which no body has a right or ownership.⁶⁸ This definition has emphasized on the issue of ownership. So, according to it, *al-mawat* is a land which is neither owned nor put into use by anybody. In this latter definition, there is no stipulation of cultivation of the land which is also important in the reclamation of a land. Therefore, in a bid to harmonise the definitions of the jurists given, *al-mawat* can be described as an uncultivated and un-occupied

land which is not under the ownership or use of anybody and which has not been forbidden for habitation. So, *ihya al-mawat* in the modern sense may mean development and use of land.

The legal effect of reclamation or revival of land has been stated in a number of *ahadith* which are based on the Qur'an principle which provides: "...He brought You forth from the earth and settled You therein...".⁶⁹ The idea of settling man on earth for him to ephemeral habitation is for the purpose of sustainable development. This is the reason why the earth is endowed with so many resources including those that can be gotten from the biosphere, hydrosphere, and atmosphere. All these are for the use of man who is expected to harness them for the enjoyment of his worldly life and to achieve both spiritual and temporal bliss. In line with the import of the verse, Sai'd ibn Zaid narrated that Prophet Muhammad once said: "Whoever rehabilitates an un-occupied which does not belong to anybody, it belongs to him".⁷⁰ In another narration related by 'Urwah on the authority of 'Aishah, she reported that Prophet Muhammad said: "Whoever rehabilitates a land which is not belonging to anybody, he has a better interest over it".⁷¹ This is when the question of reclamation of the land is between two claimants.

Efficient Use of Natural Resources and Avoiding Waste (*hisbah*)

The institution of *hisbah* is basically premised on the principles of *amr bi al-ma'ruf wa nahy 'an al-munkar* (enjoining good and forbidding evil).⁷² This is contextually extended to sustainable development through efficient use of natural resources and avoiding waster, pollution and contaminants that are detrimental to the lives of plants and animals. Islam establishes this institution as an agency of the government to promote efficient use of natural resources and ensure that those who pollute the environment are brought to book. Therefore, the protection, conservation and development of the environment and the resources contained therein are mandatory duties on every human being; failure to do that may result in prosecution. The whole concept of environmental protection and management of natural reserves fall within the powers of the *muhtasib* who is the overseer of the institution of *hisbah*. The *muhtasib* in Islamic law can be likened to the modern day ombudsman but the functions of the former are wider and more proactive. The *muhtasib* is required

to maintain balance of natural resources based on the Qur'anic principle which stipulates that man should not tamper with the ecological balance.⁷³

Management of Reserves (*al-Hima*)

Proper management of reserves is another important institution for the promotion of sustainable development in Islam. All lands which are set aside for the general good are classified as *al-hima*. The development of such lands may be detrimental to the general interest or welfare of the citizens. These reserve lands are for the utilization of every member of the community. It must not be allocated to any individual and nobody is allowed to lay claim over it.⁷⁴ From the precedents in Islamic history, Prophet Muhammad (s.a.w.) was reported to have abolished the pre-Islamic practice of making private reserves for the benefit and exclusive use of certain powerful individuals in the community. He thereafter laid the general guidelines governing these reserves which are meant strictly for public good. *Hima* therefore became "one of the essential instruments of conservation in Islamic law".⁷⁵ It is the Imam or his deputies that can declare a particular land a *hima* for the general public use. The zoning of certain lands in the community as *hima* may purposefully be used for protection of wildlife and natural resources as established in Islamic law. The general rule is that such lands declared as *hima* are protected from all types of land developmental activities, human habitation, and extensive grazing in order to conserve the natural resources available in the area.⁷⁶ The first biosphere reserve in Islam was declared by the Prophet (s.a.w.) about fifteen centuries ago where he proclaimed: "I declare Madīnah to be sacred throughout the area between its two mountain paths, so that leaves may not be eaten off except for fodder. The animals in Madīnah is not to extensively abused nor its fresh herbage cut."⁷⁷ The purpose of declaring *hima* in a community is to protect the biosphere and ensure sustainable forestry. Thus, the institution of *hima* in promoting sustainability of the environment is indispensable.

Water Rights

Shari'ah places a responsibility on upstream farms to be considerate of downstream users. A farm beside a stream is forbidden to

monopolize its water. After withholding a reasonable amount of water for his crops, the farmer must release the rest to those downstream. Furthermore, if the water is insufficient for all of the farms along the stream, the needs of the older farms are to be satisfied before the newer farm is permitted to irrigate. This reflects the sustainable utilization of water based on its safe yield. According to jurists such as Malik and Ibn Qudamah, these same principles apply to the extraction of groundwater. A person has no right to adversely affect his neighbor's well by lowering the water table or polluting the aquifer.⁷⁸

Good Governance and Sustainable Development in Islam

In Islam generally, good governance is premised on justice, equity and rule of law. Policy reforms introduced by the government must be in line with *siyasah al-shar'iyah* (public policy) which will promote sustainable development in the society. Therefore, in the administration of sustainable development institutions in Islam, good governance is very important. The mechanisms of good governance in Islamic law include *shura* (mutual consultation), public policy, *hisbah* (enjoining good and forbidding evil), *nasihah* (sincere advise), *hurriyyah al-mu'aradah* (freedom to criticize), *hurriyyah al-ra'y* (freedom to express an opinion) and *maslahah ammah* (public interest).⁷⁹ In most cases, the Head of State delegates his powers to his deputies in the execution of governmental policies. However, before any policy is executed, there must be mutual consultation, and high regards must be given to *siyasah al-shar'iyah*.⁸⁰

In relation to sustainable development, there are legal texts in the Qur'an and *Sunnah* which prohibit wastefulness and profligacy in all issues relating to human and material resources that have been provided for man. All the resources with which Allah has endowed mankind are meant to be used, developed and sustained to avoid intergenerational penury among mankind. In order to achieve this, the principle of *amr bi al-ma'ruf wa nahy 'an al-munkar* (enjoining people to do good and eschewing them from evil) is attached to the Islamic concept of good governance which is founded in the institution of *muhtasib* (ombudsman). The concept is based on enjoining good to sustain the development in the society and eschewing evil which may bring backwardness and economic

retrogression to the people. While describing the mandate of the governing authority and importance of *hisbah*, Iyad Abumoghli rightly observed:

The primary duty of the ruler and his assistants, whether they are administrative, municipal, or judicial authorities, is to secure the common welfare and to avert and eliminate injuries to the society as a whole. This includes protection and conservation of the environment and natural resources. Historically, many of the responsibilities of environmental protection and conservation have come under the jurisdiction of the office of the hisbah, a governmental agency that was charged specifically with the establishment of good and eradication of harms. The muhtasib, who headed this office, was required to be a jurist thoroughly familiar with the rulings of Islamic law that pertained to his position.⁸¹

He further highlighted the duties of the *muhtasib*:

He was responsible for the inspection of markets, roads, buildings, watercourses, reserves (hima) and so forth. Among his duties were supervision and enforcement of regulations and standards pertaining to safety, hygiene, and cleanliness; the removal and disposal of wastes and pollutants; the prevention and elimination of hazards and nuisances; the protection of reserves (hima) from violation and trespass; and the prevention of abuse and treatment of animals.⁸²

To this end, Islam places high premium on good governance. The code of conduct set for those in authority to promote good governance are meant to protect the environment, ensure sustainable development, harness resources for the benefit of mankind and fight corruption in all its ramification. In an emphatic sense, Allah prohibits all form of mischief that can impair the good living condition of the people: "Do not do mischief on earth after it has been set in order".⁸³ Therefore, those in authority are enjoined to shun corruption and maintain a just and balanced society through *maqasid*-oriented policies. People must be granted their God-given rights based on fair and equitable standards as laid down in Islamic law.

The protection of proprietary rights of individuals and the governance system in Islam is briefly summarized by Zamir Iqbal and Abbas Mirakhor:

The design of governance system in Islam can be best understood in the light of principles governing the rights of individuals, society and the

state, the laws governing propriety ownership, and the framework of contracts. Islam's recognition and protection of rights is not limited to human beings only but encompasses all forms of life as well as the environment. Each element of Allah (SWT)'s creation has been endowed with certain rights and each is obligated to respect and honour the rights of others. These rights are bundled with the responsibilities for which humans are held accountable.⁸⁴

The system of governance in Islam gives all its citizen rights and corresponding duties. The right to acquire property is part of the fundamental rights granted to citizens in the state. However, the government ensures that those properties privately-owned are used judiciously for the benefit of one's self or the Muslim Ummah at large. If the economic viability of such property can be made, then the government must lay down policies that will ensure sustainable development. Furthermore, the government must maintain social justice in the society by assisting the have-nots in developing their privately-acquired properties.

Muslim must establish their leadership role in furthering the sustainable development institutions for the benefit of mankind. This goal can be pursued through good governance in all sectors of life and full utilization of resources without being wasteful. This idea of moderation and balanced community as emphasized in the Qur'an has been further amplified by Zubair Hasan where he observed:

Moderation and balance in worldly pursuits that the verses of the Qur'an repeatedly emphasize are intended to support this basic Islamic concept of sustainable development. We shall have occasion to present such verses later in the discussion. The achievement of the maqasid (goals) calls for dynamic interaction between socioeconomic processes and environmental priorities. If Muslim countries could produce even a replica of such interaction and its benefits, it may be possible to send a positive message to humanity that such a framework is imperative to produce an equitable economy, a better society and a world that is worth living for present and future generation.⁸⁵

It is clear that good governance and sustainable development are two inextricable concepts that are closely-linked. It is therefore imperative for Muslims to unravel the treasure of the ideals of Islam in relation to sustainable development for proper administration of sustainable development institutions in the modern world.

Sustainable Development Institutions and Social Security

The sustainable development institutions in Islam are not meant for mere theoretical issues. They must be proactive in the bid to establish the Islamic welfare state. The governing authority must ensure every citizen is given the right to education, health, healthy environment, and good standard of living. Social security is a fundamental part of good governance which can be promoted through proper channeling of state resources in the development of slums and land inhabited by the poor. It is the duty of the state to introduce policies that will assist in poverty alleviation through sustainable development. Iyad Abumoghli confirms this:

The Islamic way of poverty alleviation focuses on developing human resource and providing relevant job opportunity. The institutions identified for financial assistance to the poor are assistance (kifalah) by: the nearest kin; the neighbors under neighborhood rights; others in the form of mandatory charity like (Zakat), obligatory contribution; and through temporary and permanent endowments. Moreover, an Islamic State is bound to provide sustenance to its citizens irrespective of their religion. The State meets this responsibility by collection of Zakat, other emergent charities and raising taxes. The extent of such relief to the poor under Islam cannot be disputed.⁸⁶

As earlier discussed, institutions of *zakat*, *bait al-mal* and *waqf* are important mechanisms for alleviation of poverty when properly managed. According to Abd al-Rahman Yousri “[t]he motivation for poverty alleviation and human development in Islam is linked with *Sharī’ah* and *aqīdah*. *Sharī’ah* imposes a fiscal duty on production as well as on idle liquid wealth, because *zakāh* and *aqīdah* motivate believers to pay charity (*sadaqah*) to those who are not able to meet the basic necessities of life.”⁸⁷ The aim of these fiscal policies is not only to meet the basic needs of the poor but to remove them from poverty bracket and transform them to wealth-creating entities through sustainable developmental policies.

Furthermore, education is an important tool for the sustainable development in Islam. Seeking for knowledge through formal institutions is an obligation on all Muslims and a burden shouldered by the governing authority. Both religious and secular education can be used to promote sustainable development in the society. In fact,

the comprehensiveness of religious education accommodates all the modern principles of sustainable development.

In addition, right to healthy living and clean environment is an important aspect of Islam. The fundamental basis of the five canonical prayers in Islam is purity of body and mind. One cannot proceed to observe a prescribed prayer (*salat*) without undergoing a particular form of purification in form of ablution. This is observed at least five times a day. This speaks volume about the high premium Islam places on purity and the need to live in a healthy environment. This is closely related to right to good standard of living and good health facilities. The governing authority must ensure enough food supply and adequate water supply for the benefit of all. Epidemic and diseases must be curtailed and health facilities must be accessible to all. The use of chemicals and other elements that may stand as potential risks to the masses must be controlled, while sewage and domestic waster must be well treated and, if possible, recycled in line with the true Islamic ideals which encourage sustainable development and condemns profligate depletion of natural resources.

Role of Public in Promoting Environmental Protection

Public participation or Shura is taken here to mean the evolving decision making process at all levels of the Islamic society. It applies universally to the decision making on ecological matters as on political ones. Such a treatment of Shura is closer to its meaning in the Qur'an: *Wa amruhom shura baynahum.*" The Qur'an advises man to maintain the balance as the world was created in balance. "We did not create heaven and earth and everything in between them as a game. If we had desired to have some amusement, we would have derived it from our presence, but w" did not do that⁸⁸. "He created man and taught him clear expression. The sun and the moon both run with precision. The stars and the trees bow down in prostration. He erected heaven and established the balance, so that you would not transgress the balance. Give just weight do not skimp the balance. He laid out the earth for all living creatures".⁸⁹ Man's role in promoting environmental protection is undeniable as such man must collectively assume an important role in promoting environmental protection.

Education and Raising Environmental Awareness

The teachings of Islam have an ethical notion that guides Muslims to care about the environment; knowledge that helps them perfects their duties. "He taught Adam the names of all things. Then "He" arrayed them before and said, tell "Me" the names of these if you are telling the truth".⁹⁰ This verse describes how and why humankind was given the ability to know the names of creation. It is an important symbol of knowledge given only to the human race from among all the other creatures including angles. Therefore, using religious education to convey the messages of Sustainable Development is an excellent tool as religious values are more accepted for Muslims than sophisticated jargon of new scientific terms.

CONCLUSION

It timely for man to realise that he is only one of God's creations, existing side by side with other living beings. His life depends on other lives and energies and processes in an interwoven system of which he is merely a part. If his arrogance lead him to believe that he represents the epitome of God's creation, the Qur'an reminds him that "*Greater indeed than the creation of man is the creation of the heavens and the earth.*"⁹¹ A Muslim cannot hope for salvation in the hereafter if his worldly affairs are tainted with greed; He cannot claim to love God and seeks God's love if he chooses to hate His creations on the earth. This will facilitate the flow of *barakah* or divine grace.⁹² The *Shari'ah* as well as all the other great religions of the world offers solution for man to live in harmony with the nature, more appropriately with other creations. Man must be aware of the *barakah* he will earn by not harming the environment, which will ultimately cause harm to him, the society, and the natural environment. He must also be aware of God's wrath he may incur by transgressing the limits and destroying the nature and its processes for his own greed.

Our responses and our priorities should be based on the moral authority of being of service to humanity. The Qur'an provides to the effect that, "*Let there be a community among you who call to the good, and enjoin the right and forbid the wrong, they are the ones who have success.*"⁹³ For Muslims sustainable living is based on the *Fitra* – the natural paradigm of Allah (swt) creation and adding the spiritual and political aspects to the three pillars of sustainable

development would make this a very Islamic concept.⁹⁴ These five pillars in fact define the externalities of the Islamic system and balance out the classical five pillars of individual practise.⁹⁵

It is time to rethink the role of religion and ethics in promoting environmental protection and conservation of natural resources which has been severely affected owing to man's inconsiderate attitude. Environmental crisis is very much related to moral and spiritual crisis. In addressing this crisis, we require broader philosophical and religious understandings of our creation, nature, and our relation with nature. Religious principles need to be re-examined in light of the present global predicament where environmental crisis needs urgent attention rather than economic, social or political factors. Religious values can help to shape our attitudes towards nature, mankind and our own existence.

Notes

1. MAJ. Beg, *Two Lectures on Islamic Civilisation*, University of Malaya Press, Kuala Lumpur, 1983, pp. 28-29.
2. Allawi, Ibrahim, "Some Evolutionary and Cosmological Aspects to Early Islamic Town Planning," in Margaret Bentley Sevcenko (ed), *Theories and Principles of Design in the Architecture of Islamic Societies*, Cambridge, Massachusetts: Aga Khan Program for Islamic Architecture, 1988 pp. 57-72 at p. 70.
3. Abu-Lughod, Janet L., "The Islamic City: Historic Myth, Islamic Essence, and Contemporary Relevance," in Hooshang Amirahmadi and Salah S. El-Shakhs, eds. *Urban Development in the Muslim World*, (New Brunswick, NJ: Center for Urban Policy Research, 1993), pp.11-36 at p.12; See the discussion in J.Dudley Woodberry, "Guest Editorial: Muslim Cities", in *Urban Mission Journal* Vol.15, No.3 pp.1-4 at p.1, Internet Version at <<http://www.wts.edu/publications/journal/vol15no3/article.htm>> where the author has referred Abu-Lughod, Janet L., "The Islamic City: Historic Myth, Islamic Essence, and Contemporary Urban Development in the Muslim World, Hooshang Amirahmadi and Salah S.El-Shakhs,(eds) Brunswick, NJ: Center for Urban Policy Research, 1993) pp.11-36; El-Shakhs, Salah and Hooshang Amirahmadi, "Population Dynamics, Urbanization and the Large Cities in the Arab World," in the *Muslim World*, Hooshang Amirahmadi and Salah S.El-Shakhs,(eds) Brunswick, NJ: Center for Urban Policy Research, 1993) pp. 233-5.
4. *Ibid*

5. Abdulac, Samir. "Large-Scale Development in the History of Muslim Urbanism", in Margaret Bentley Sevcenko (ed). *Continuity and Change: Design Strategies for Large-Scale Urban Development*, Cambridge, Massachusetts: The Aga Khan Program for Islamic Architecture, 1984, pp. 2-11 at p. 2.
6. *Ibid.*
7. Dr. Rabah Soud, "Introduction to the Islamic City", Foundation for Science Technology and Civilisation (FSTC) Limited, 2002, 2003, Internet version at <<http://www.muslimheritage.org>>
8. *Ibid.*
9. *Al Qur'an, Al-Imran 3:138*, Translation from Abdullah Yusuf Ali.
10. Shari'ah is derived from the prescriptions of the Qur'an and the accepted tradition of the Prophet Muhammad (saw), the Hadith. The Shari'ah is based on juristic interpretation and not codified. Furthermore, the four major schools of Islamic jurisprudence usually differ in details of practice and application. It is binding upon every institution, political, social, economic, public and private departments so long as it they are Muslims.
11. Moustapha, A.F. "Islamic Values in Contemporary Urbanism" paper presented at the First Australian International Islamic Conference organised by the Islamic Society of Melbourne, Eastern Region (ISOMER) August 1986 at p.5. (Unpublished).
12. *Ibid.*
13. Amini Amir Abdullah, "Konsep Seni dalam Islam," in Ahmad Fauzi Hj. Morad and Ahmad Tarmizi Talib (eds) *Tamaddun Islam*, Serdang, Penerbit Universiti Putra Malaysia, 1997 at p.153. Refer also Sayyed Hossein Nasr, *Man and Nature: The Spiritual Crisis in Modern Man*, London, George Allen and Unwin, 1968; Dr. Ismawi bin Hj. Zen, "Vision of An Islamic City", Unpublished conference paper presented at the Conference on *Shaping the Vision of a City*, Ipoh 16 - 17 September 1996; See also Dr. Ismawi Hj. Zen, "Hubungan Manusia Dengan Alam Sekitar Dalam Bentuk Spatial", Kertas Dasar Untuk Jabatan Perancangan Bandar dan Desa Bagi Kajian Doktrin Perancangan dan Pembangunan Sejagat, Julai 1996.
14. F.A. de Montequin, "The Essence of Urban Existence in the World of Islam, paper presented at the Symposium on Islamic Architecture and Urbanism, King Faizal University Saudi Arabia 1980, pp. 3.
15. Moustapha, A.F. "Islamic Values in Contemporary Urbanism" paper presented at the First Australian International Islamic Conference organised by the Islamic Society of Melbourne, Eastern Region (ISOMER) August 1986 at p.4. (Unpublished).

16. World Conservation Union, U. N. Environment Programme and World Wide Fund For Nature.
17. There are numerous landslides, flash flood, and mud flood incidents that occurred recently in Malaysia.
18. Expressed during an interview with Marjorie Hope and James Young, "Islam and Ecology", Internet version at <http://www.crosscurrents.org/islamecology.htm>.
19. Mohamed Talha Idrus, "Planning for the Khalifah: Towards a Theory of Planning Rooted In Islam in Planning Theory, pp. 1-15 at p.1; Refer also A. Faludi, "What is Planning Theory," A Faludi, in the *Journal of American Institute of Planners*, (1962) Vol. 28, p. 8.
20. N. Baster, *Measuring Development*, Frank Cass, London, 1972, referred to by Mohamed Talha Idrus in *Ibid*.
21. Refer J. R. Seeley, "What is Planning: Definition and Strategy," *Journal of the American Institute of Planners*, V. 5, pp. 91-97.
22. Dr. Hasan Zillur Rahim, "Ecology in Islam: Protection of the Web of Life a Duty for Muslims" in *Washington Report on Middle East Affairs*, October 1991, Page 65.
23. *Ibid*.
24. Shahibuddin Laming, *Knowledge Khilafah and Amanah in Islam*, Aras Mega (M) Sdn. Bhd. Kuala Lumpur, 1995, pp. 34-36.
25. World Conference on Environment and Development, *Our Common Future* (1987).
26. Al-Qur'an 40:57.
27. Al-Qur'an 24:45.
28. Al-Qur'an 2:30.
29. Interestingly, the Philippines court held that the present generation has a right to seek protection for the future generation and ensure that the natural environment is conserved for them. They developed the concept of intergenerational equity. See *Minors Oposa v Secretary of the Department of Environment and Natural Resources* (1994) (DENR) 33 ILM 173. See also La Vira, M., "The Right to a Sound Environment in the Philippines: The Significance of the *Minors Oposa* Case," [1994] *Review of European Community & International Environmental Law* Vol. 4(3) pp. 246-252; Abdul Haseeb Ansari, "Right to a Healthful Environment as a Means to Ensure Environmental Justice: An Overview with Special Reference to India, Philippines and Malaysia," [1998] 4 *MLJ* xxv; Allen, T., "The Philippines Children's Case: Recognising Standing for Future Generations," [1994] *Georgetown International Environmental Law Review* Vol. 6 at pp. 713-741.

30. Al-Qur'an Surah 6:165; See Al-Qur'an Surah 10:14, where it is proclaimed that, "Then We made you heirs in the land after them, to see how you would behave!"
31. Prof. Karem S Ghoneim, *The Quran and the Environment*, Faculty of Science, Al-Azhar University, Cairo, found at <<http://www.islamonline.net/english/Science/2000/4/article/shtml>>
32. Al-Qur'an Surah 15:19.
33. Al-Qur'an Surah 6:59.
34. Dr.Hasan Zillur Rahim, "Ecology in Islam: Protection of the Web of Life a Duty for Muslims," in *Washington Report on Middle East Affairs*, October 1991, p. 65.
35. *Ibid.*
36. Besim Selim Hakim – *Arabic – Islamic Cities, Building and Planning Principles*, KPI Limited (1986) London; Ahmed Farid Mustapha, "Islamic Values in Contemporary Urbanism", a paper presented at the First Australian International Islamic Conference, organised by the Islamic Society of Melbourne, Eastern Region (ISOMER) August 1986 at pp. 1-52.
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41. Jalaluddin Abdul Malek, "Bandaraya Bestari daripada Perspektif Islam," in *Islamiyyat*, Vol. 18 & 19 [1998] pp. 3-20 at p. 6.
42. Marjorie Hope and James Young, *Islam and Ecology*, internet version at <http://www.crosscurrents.org/islamecology.htm>
43. *Ibid.*
44. Karem S. Ghoneim, "The Quran and the Environment" Faculty of Science. Al-Azhar University, Cairo Internet Version at <http://www.islamonline.net/english/Science/2000/4/article/shtml>, accessed on 15th November 2009.
45. Al-Qur'an Surah 11:61.
46. Sayyidina Abu Bakr is often quoted in his advises to the parting troops not to chop down trees and destroy agriculture, Bukhari in *Adab al-*

Mufrad. Available at the Internet site at <http://www.jamiat.org.za/news/sustain2.html>

47. Al-Qur'an 4:36, "Serve God, and join not any partners with Him: do good to parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers..."
48. "The Prophet said: Gabriel continued to recommend me about treating their neighbours kindly and politely, so much so that I thought he would order me to make them as my heirs," *Sahih Bukhari* Vol. 8, p. 27.
49. See generally writings of some Muslim scholars on the role of man as protector of the nature, "Islamic Ethics and Ecology," in F. Khalid and J. O'Brien (eds), *Islam and Ecology* (Cassell) pp. 25-35. Ibn Khaldun, (1967) *The Muqadimah*, Translated from Arabic by F. Rosenthal, ed. By Dawood, N.J., Princeton Publications; Dr. Wan Mohd Azam bin Mohd Amin – Prinsip-Prinsip Umum Penjagaan Alam Sekitar Menurut Al-Quran dan *Sunnah*; dalam *Dakwah* April 1996; Ahmad Shalaby, *Agama Islam - Siri Perbandingan Agama*, Pustaka Nasional, Singapura, 1977; Abdul Haseeb Ansari, "Right to a Healthful Environment: An Established Human Right in Islam", a paper presented at the National Seminar on "The Legal Regime of Sustainable Land Use and Environmental Development: Policies and Trends", organised by LATEC, Law Centre and Ahmad Ibrahim Kulliyah of Laws, IIUM at Kuala Lumpur on 9th August 2003; Abdul Haseeb Ansari "Islamic Perspective of Environment", paper presented in the Seminar on Islamisation of Knowledge – 2nd. Series, organised by Muslim Students Association, Japan at Tokyo Institute of Technology, Japan, 14 December 1997.
50. See Qur'an Surah 7: 85.
51. See full version of hadith in Yahya ibn Adam, *Al-Kharaj*, Cairo: Al-Matba'ah Al-Salafiyyah wa Maktabatihah, n.d.p. 93 as cited in Muhammad ibn Ali Al-Samih, *Milkiyyah al-Ard*, n. 6, p. 137.
52. This hadith is quoted in M. I. Al-Amir, *Subul al-Salam sharh bulugh al-maram*, Beirut: Dar Ihya' al-turath al-Arabi, 1960, Vol. III, pp. 82-83. Also, see Shaybat al-Hamd, *Fiqh al-Islami sharh bulugh al-maram*, Riyadh: Al-Madinah Press, n.d., Vol. VI, pp. 51-56.
53. Abdul-Qadir Zubair, *Islamic Legal Doctrine and Interests in Land*, Lagos, Nigeria: Al-Madinah Heritage Publications, 1996, p. 54, citing A. Al-Khafif, *Ahkam al-mu'amalat al-Shar'iyyah*, Cairo: Ansar al-Sunnah al-Muhammadiyah Press, 1947, p. 119.
54. Abu 'Ubaidah, *Al-Amwal*, p. 408.

55. For a detailed discussion on *harim* and the legal effects, see Abdur-Rahman Abdul-Qadir, *Tamlík al-Arādī bi al-Ihya'ī al-Istislah wa al-ta'mir fī al-Sharī'ah al-Islamiyyah*, n.p., 1986, pp. 76-107.
56. Siti Mariam Malinumbay¹S. Salasal, n. 9, p. 303.
57. Munawar Iqbal, "Introduction", in Munawar Iqbal (ed.), *Islamic Perspectives on Sustainable Development*, New York: Palgrave Macmillan, 2005, p. 16.
58. For the acceptable modes of acquiring property, see Abdul-Salam Dawud Al-Abbadi, *Al-Milkiyyah fī al-Shariah al-Islamiyyah: Tabi'atuha wa-wazifatuha wa-qyuduha : dirasah muqaranah bi al-qawanin wa al-nuzum al-wad'iyah*, 'Amman: Maktabat al-Aqsa, 1977, Vol.2, pp.30-31.
59. For a detailed discussion of the conditions governing ownership and the use of rights in a particularly property, see *Id*, p.71-151. Also, see Mahmoud A. Gulaid, *Land Ownership in Islam (A Survey)*, Research Paper No. 14, Jeddah: IRTI, Islamic Development Bank, 2001, p. 16.
60. See the interpretation and the exegesis of Qur'an 59: 9 where Allah says: "What Allah gave as booty (*Fai'* which includes land) to his Messenger (Muhammad) from the people of the townships; - it is for Allah, his Messenger, the kindred (of Messenger), the orphans, the poor, and the wayfarer, *in order that it may not become a fortune used by the rich among you*. And whatsoever the Messenger gives you, take it, and whatsoever He forbids you, abstain (from it) , and fear Allah. Verily, Allah is Severe in punishment." (Emphasis added). In his Tafsir, Ibn Kathir emphasized that the Lawgiver stipulated this rule of distribution of booty to prevent the rule and domineering attitude of the rich oligarchy. In most cases during the expeditions that led to the expansion of the Islamic empire, land formed a major bulk of the booty acquired by the Muslim warriors. See Ibn Kathir, *Tafsir Al-Qur'an Al-'Azim*, Beirut: Dar Ihya' al-turath Al-'Arabi, n.d.
61. See the land policy introduced by the Prophet in Ziaul Haque, *Landlord and Peasant in Early Islam*, Islamabad: Islamic Research Institute, 1984, p. 133.
62. *Al-mawat* is from the word *mawt* which means death. So, the use of the word *mawat* for a particular land is rhetorical. It is used in a rhetoric way to describe a thing which has no soul. Therefore, *ihya al-mawat* means a land which is not owned by anybody. In the sense of sustainable development, it may be more appropriate to refer to such land as undeveloped land rather than using the words "barren" or "dead" land. See Muhammad ibn Ali Al-Samih, *Milkiyyah al-Ard fī al-Sharī'ah al-Islamiyyah*, 1st Ed., n.p. 1983, p. 111.

63. Iyad Abumoghli, "Sustainable Development in Islam", available at http://waterwiki.net/index.php/Sustainable_Development_in_Islam assessed on Sunday 24th January 2010.
64. Muhammad ibn Ali Al-Samih, n. 57, p. 112.
65. Siti Mariam Malinumbay S. Salasal, "The Concept of Land Ownership: Islamic Perspective", *Buletin Geoinformasi*, Jld. 2 No.2, (December 1998), p. 285 at 298.
66. Ibn Qudamah al-Muqadisi, *Al-Mughni*, Riyadh: Maktabah al-Riyad al-Hadithah, vol. 5, p. 563.
67. Al-Mawardi, *al-Ahkam Al-Sultaniyyah*, Cairo: Matba'ah Mustapha al-Babi al-Halabi, n.d., p. 177.
68. Abu Yusuf, *Al-Kharaj*, Cairo: Al-Matba'ah Al-Salafiyyah wa Maktabatihah, n.d. p. 65.
69. Qur'an Surah 11: 61.
70. This hadith was related by Abu Dawud and others and its chain of narrators is classified as *sahih*. See Abu Dawud, *Sunan Abi Dawud*, 1st Ed. Cairo: Al-Babi Al-Halabi, 1371 A.H., vol. 4, p. 266, Hadith No. 2950.
71. See Abu 'Ubaidah, *Al-Amwal*, edited by Khalil Haras, 1st Ed., 1388, p. 403. This same hadith was related by al-Bukhari, Ahmad, An-Nasa'i with different wordings where the Prophet was reported to have said: "Whoever rehabilitates inhabits a land which does not belong to anybody, he has better interest over it". See Ibn Hajar Al-Asqalani, *Fath al-Bari*, Al-Matba'ah al-Salafiyyah, n.d., vol. 5, p. 18.
72. See generally, Ibn Taimiyyah, *Public Duties in Islam –The Institution of the Hisbah*, translated from the Arabic by Muhtar Holland, London: Islamic Foundation, 1992.
73. Some verses in the Qur'an on maintaining ecological balance include the following: "We did not create the Heaven and the Earth and everything in between them as a game. If we had desired to have some amusement, We would have derived it from Our presence, but We did not do that", (Al-Anbiya 21:16-17); "He created man and taught him clear expression. The sun and the moon both run with precision. The stars and the trees bow down in prostration. He erected Heaven and established the balance, so that you would not transgress the balance. Give just weight do not skimp the balance. He laid out the earth for all living creatures", (Ar-Rahman 55:3-9).
74. See Abu Ya'ala, *Al-Ahkam al-Sultaniyyah*, edited by Muhammad Hamid al-Faqi, 2nd Ed. Cairo: 1386 A.H., p. 222.

75. Othman Llewlllyn, "Conservation of Poverty Reduction; Traditional Approaches in West Asia: Hima Revival and Evolution through the 21st Century", a workshop held in Lebanon end of March 2007.
76. See the discussion on *al-hima* in Jum'ah Mahmud Al-Zariqi, *Al-Tawthiq al-'Iqari fi al-Shari'ah al-Islamiyyah*, Tarablus, Libya: al-Mansha'ah al-'Ammah, 1985, pp. 70-71.
77. See Abu Ya'ala, *Al-Ahkam al-Sultaniyyah*, p. 185.
78. http://www.islamonline.net/servlet/Satellite?c=Article_C&pagename=Zone-English-HealthScience%2FHSELayout&cid=1157365852697
79. See generally, a detailed examination of these concepts in Mohammad Hashim Kamali, *Freedom of Expression in Islam*, Kuala Lumpur: Ilmiah Publishers Sdn. Bhd., 1998, pp. 26-72.
80. See generally Mohammad Hashim Kamali, "Methodological Issues in Islamic Jurisprudence", *Arab Law Quarterly*, (London), Vol. 1 (1996), 3-34 at p. 29.
81. Iyad Abumoghli, n. 63, p. 7-8.
82. *Ibid.*
83. Qur'an Surah 7: 85.
84. Zamir Iqbal and Abbas Mirakhor, "The Stakeholders Model of Governance in an Islamic Economic System", in Munawar Iqbal (ed.), *Islamic Perspectives on Sustainable Development*, New York: Palgrave Macmillan, 2005, p. 63.
85. Zubair Hasan, "Sustainable Development from an Islamic Perspective: Meaning, Implications and Policy Concerns", *J.KAU: Islamic Econ.*, Vol. 19, No. 1, (2006 A.D/1427 A.H), p. 9.
86. Iyad Abumoghli, n. 63, p. 5.
87. Abd al-Rahman Yousri, "Sustainable Development: An Evaluation of Conventional and Islamic Perspectives", in in Munawar Iqbal (ed.), *Islamic Perspectives on Sustainable Development*, New York: Palgrave Macmillan, 2005, p. 34.
88. Qur'an Surah Al Anbiya 21:16-17.
89. Qur'an Surah Ar Rahman 55:3-9.
90. Qur'an Surah Al Baqarah 2:31.
91. Al-Qur'an Surah 40:57.
92. Seyyed Hossein Nasr, *Man an Nature: The Spiritual Crisis of Modern Man*, London, George Allen and Unwin Ltd., 1968, at p. 95.
93. Al Qur'an Surah Ali Imran (3) verse 104.

94. Fazlun M. Khalid. "Sustainable Development And Environmental Collapse An Islamic Perspective", paper presented at the World Summit on Sustainable Development parallel event Muslim Convention on Sustainable Development National Awqaf Foundation of South Africa, 1 September 2002, Internet Edition at <<http://www.islam.co.za/awqafsa/SUSTAINABLE%20DEVELOPMENT%20AND%20ENVIRONMENTAL%20COLLAPSE.htm>>
95. *Ibid.*