THE PROSPECT OF ISLAMIC ENVIRONMENTAL LAW IN MALAYSIA

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1. Introduction
In Malaysia, the environmental law is not under the Islamic law jurisdiction but civil jurisdiction, pursuant to Schedule 9 of the Malaysian Federal Constitution. If it is not under the Islamic Law jurisdiction, the question that arises is whether Islamic Law plays a role in the protection and preservation of the environment and whether the existing laws should not be Islamized or at least be in harmony with the Islamic law (shariah) regardless of whether it uses the Islamic terms? The existing environmental laws enforced in Malaysia were legislated pursuant to the sustainability development theory and this theory is in line with shariah. Hence, why is it necessary to study Islamic environmental law if the existing laws are already compatible with shariah? Reflecting upon earlier studies, the compatibility is only from the philosophical angle but not in terms of practicality. In fact, the sustainability development theory is not exactly “sustainable” as its name implies because it only includes instrumental values (such as economy, social and environment) but does not include intrinsic values (such as ethical, religious and cultural).

However Shaharir stressed that since the 1940s until this day, many researches such as Postel (1990), Redman (1999), Faber (2003), Hopwood (2005), Magnani and Tubb (2008), and Li (2011) found this sustainability development theory being continuously criticized for neglecting the human development aspects which includes cultural and spiritual values. Based on the results of a 30 years analysis of the implementation of the sustainability development theory in countries such as the USA, the UK, Australia, China and Singapore, Shaharir showed that this
limited view of the sustainability development theory should be varied to something that is more balanced and holistic as religious elements have been neglected. Hence, he suggests that this balance can be achieved through the embodiment of the Islamic concept of balance and moderate \textit{(wasat)} into the paradigm of the sustainability development theory. There are avenues or opportunities for the principles of Islamic environmental law to be re-adapted or re-interpreted into the existing legal system.

2. Islam And The Conservation Of The Universe

Based on earlier studies, the perspective difference between Islam and the West on the environment is in terms of the evaluation system of the cultural, ethics and spiritual aspects. The West look at the environment as a profitable source to mankind as described in the anthropocentrism, secularism and atheistic theory which set aside the contra-relationship concept in terms of its function and structure amongst the environment, mankind and God. According to S. H Nasr\textsuperscript{5}, the emergence of the Western humanism theory led to mankind chasing for material gains through controlling, conquering and polluting the environment. Pressing reasons of economic welfare, followed by the voices of the modernists fighting for western technology and pursued by industrial revolution and western technology innovation issues covertly led to the destruction of the environment.

Islamic Eco-Theology

On the other hand, studies by early Islamic environmentalists stressed on aspects of axiology and deontology, which are based on Islamic theology \textit{(aqidah)}, to increase religious spirituality. Seyyed Hossein Nasr\textsuperscript{6}, Fazlun M Khalid, \textsuperscript{7} Abd al Hamid \textsuperscript{8} & Llewellyn \textsuperscript{9} had presented basic principles on Islamic environment which are the principles of unity \textit{(tawhid)}, principles of creation