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Islamic Law & Water

Water is the basis of life on earth in all its forms. It is a resource as essential as light and air. The spoiling of this resource, or the restriction or abuse of access to it, at the least harms life and, in the extreme, threatens its continuance. It would be astonishing indeed if Islamic Law, which is an inclusive guidance for the proper ordering of individual and collective life, did not offer guidance on the way we think about, the way we hold, and the way we share, this essential resource. Those three ways make up the three inter-related elements of the Islamic legal perspective on water: (1) ownership, (2) conservation, (3) sharing.

Before I elaborate on that, it is necessary to say a few words on the general relationship between the Law and human efforts to exploit the resources available to us, including the resource of human will and organising power. Unlike other legal traditions, in Islamic tradition, the Law is not embarrassed to deal with such concepts as duty to God, and its contrary, the defiance of God or sin. For the present discussion, it is useful to define sin as wilful indifference to the long-term consequences of our actions, and of the legal and economic structures which condition human choices. By long-term consequences I mean those that are geographically and temporally removed from ourselves. To sin in the use of water is, then, to not care about downstream consequences -- to not care about how our use affects others (other human beings and other living creatures, sentient or not) in places far from us, and how it affects those who will come long after we have gone, our children's grandchildren. To be dutiful to God, in contrast, is to use water in a way that is consistently and sustainably fair to people, even if they are not in our neighbourhood, and to the

future generations of life on the Earth.

If I may put it bluntly, there is a severe disconnection between the value-system underpinning and defining economic efficiency in modern Western capitalism, and the value-system underpinning and defining economic efficiency in any pre-modern or traditional society. In the former, companies are required by law – let me stress that, companies are required by law – to maximise the financial returns for their shareholders regardless of the long-term downstream effects of their operations. The only constraint is that the company must look after its public image in the marketplace -- lest public distaste with the company adversely affect returns for shareholders. This value-system is efficient in very short-term cycles. It is deeply and extensively destructive in the long-term: crudely put, a few people get very rich very quickly in an increasingly impoverished and polluted world. That is scarcely a rational approach, still less morally justifiable. In any traditional perspective, economic activity is not a law unto itself, it is simply one form of the many forms of interaction and co-operation between people, and between people and the fabric of resources on which their lives and livelihoods depend. The traditional legal perspectives -- and Islamic Law is one of these -- do not, in the name of profit-maximising efficiency exempt economic activity from the normal moral constraints, most notably, the constraint that we must not harm others. The creation of wealth cannot, in an Islamic perspective, be systematically separated from the distribution of wealth. Muslims may not get rich at the cost, systematically, of impoverishing others. Regulation in Islamic Law of the use of resources follows from this fundamental principle.

Let me begin with the concept of ownership of water. Who owns it? Water is the primary source of life on earth. The Qur'an uses the word for water 63 times. God says: 'We made every living thing of water' (*al-Anbiya'*: v 30). Water is essential for the continuance of life and God has

made a wonderful arrangement to produce and preserve, and regulate it. He says: 'Have you observed the water which you drink? Is it you who shed it from the rain cloud or are We the shedder' (*al-Waqi`ah*: v 68-69). Self-evidently, water is given, it is a part of the mercy and grace of God; we do not make it. In the absolute sense therefore, ownership of water, as of all natural goods, belongs to God. However, God has permitted the management of natural goods to human beings, who are granted the rights and duties of stewardship (*khilafah*) over them, as a means of testing their willingness and capacity to handle their indebtedness to God. How sharp a sense of that indebtedness Muslims retain may be gathered from the fact that the religion of Islam began, and predominates overwhelmingly, in some of the most arid parts of the earth. Despite that, it is Muslims uniquely for whom regular washing is a religious obligation, a ritual necessity before acts of worship. It is little wonder that Islamic Law dealt with the issue of water in considerable detail.

Water in its natural state is considered common property, with clear principles for determining priority of usage. For example if there is a large naturally-occurring river, where the water is permanent, then these may freely be used by anybody for watering livestock, irrigating land etc., and channels may be dug from them. But if there is a river which contains insufficient water, then those close to it have priority over others. The rule is based on a judgement of the Prophet. Abdullah ibn Zubayr narrated that an *ansārī* man quarrelled with Zubayr about the Harra canals which were used for irrigating the date-palms. The *ansārī* man said to Zubayr: let the water pass, but Zubayr refused to do so. So the case was brought before the Prophet, who said to Zubayr: O Zubayr, irrigate your land, and then let the water pass to your neighbour. Water resources are classified in Islamic Law into three main categories: rivers, springs and wells. On the basis of specific judgements of the Prophet, and of the early caliphs after him, the jurists set out explicit general and detailed rulings concerning these three categories of water. What one can draw from

these detailed juristic applications is that a distinction is drawn between public and private sources of water. In its natural state, water is a commonly-held resource, meaning that access to and use of it may not be legally refused. On the other hand, where someone has, say, dug a well on private land, they are under no general obligation to provide to others the water so raised. However, in case of urgent need, one may apply to the ‘owner’ of the well, and that individual is legally obliged to provide such water as alleviates the urgent need. As for diversion of water flows, for irrigation or other purposes, the rights of the ‘owner’ are balanced by a legal responsibility for downstream effects on other actual or potential users of the flow, and for any effects on the flow as a whole. The rights of the ‘owner’ are therefore conditional on reasonable use, and may be challenged if the use is harmful.

The resource itself may not be harmed. Conservation of water and of its wholesomeness are required in law. The well-known instance is that it is forbidden to urinate in water if doing so pollutes it. The obvious inference to be drawn from this is that untreated sewage and factory outflows to rivers and waterways, or to the ocean, are illegal. Doing so pollutes the water and, over time, makes the resource unwholesome and injurious to life, particular river and marine life, with severe consequences for human livelihoods that are dependent on healthy rivers and seas.

The most important aspect of conservation of water is frugality in the use of it. I have mentioned the obligation of regular washing in Islamic Law – body and clothes must be kept clean in order to be fit for prayer. Yet, even and especially in the discharge of this obligation, the Prophet was most emphatic on the duty to be frugal. He forbade the excessive use of water even for the ablutions, describing it as *makrūh*, ‘detested and reprehensible’. Once he came by when Sa‘d was doing the ablution. Seeing that Sa‘d was using a lot of water, he intervened and said: ‘What is this?’

You are wasting water.’ Sa‘d asked: ‘Can there be wastefulness while doing the ablution?’ God’s Messenger answered: ‘Yes, even if you are doing it [the ablution] on the bank of a rushing river.’

The right approach, according to the Islamic legal perspective, as in most matters, is to seek the balanced way between excess and insufficiency, and where there is doubt to err on the side of restraint and self-discipline, emphatically not on the side of self-indulgence and increasing or multiplying one’s needs. The Muslims are under legal and moral obligation to contain their patterns of consumption, to deliberately and systematically, individually and collectively, avoid waste. The command of the Qur’an is unequivocal: ‘Render to the kindred their due rights, likewise to those in want, and to the wayfarer; but do not squander [your wealth] in the manner of a spendthrift. Spendthrifts are surely brothers of the evil ones and the Evil One is to his Lord ungrateful. [Rather, be like] those who, when they spend, are not extravagant and not niggardly, but hold a just [balance] between those extremes.’

That brings me to the third issue of sharing. Given that water is the essential life commodity, on a par with light and air, sharing the resource is a necessary duty. The temptation of modern economic activity is to invade natural resources, to concentrate their exploitation on an immense scale, for the sake of an apparent and short-term efficiency in wealth-creation, which, in the near and long-term has hugely (and often irreversibly) damaging effects on wealth-distribution. How often we have seen massive investments in huge engineering projects to dam and control water-flows, to enable irrigation or production of electricity. As often as not, these projects have displaced large numbers of human beings, disrupted the life of animals and plants and irretrievably ruined local economy and ecology. Sharing of the resource of water, by contrast, requires an understanding of its function in the local economy and ecology, and respect for the local people, however poor

they may be, so that they are not deprived of the little they are used to in order that the few people (government agencies included), who dispose and can invest huge financial resources, may 'modernise' the economy and 'make it efficient'. If all long-term consequences are properly admitted to the analysis, vast water management projects are not in fact efficient, not cost-effective, ways to deal with the problems of poverty.

Let me say again: access to water is essential to life. The dignity of human beings as stewards of the earth's natural goods is not accorded to any nation in preference to any other, nor to the rich few in reference to the many poor. The Islamic legal perspective accordingly is fundamentally opposed to those political and economic and legal regimes that seek, for all practical purposes, to place the holding and distribution of water resources at the disposal of supranational economic entities which have no other aim, no other accountability, than profit-maximisation. Ownership, conservation and sharing of water resources, if managed within an Islamic legal perspective, must be managed with a view to the long-term and downstream consequences. Except for reasons of dire necessity, and only while the dire necessity endures, there is no support in Islamic Law for actions or policies that exhaust and pollute water, that make it difficult to share water or to hold it in good condition for future generations.

Dr Mohammad Akram Nadwi, Oxford

Learning From Nature

The concept of the environment in general terms can be understood from two perspectives.

The first constitutes the Earth's nature and geography: the physical natural elements such as the water cycle, the tide, the movement of the Earth's tectonic plates, the shaping of landforms by wind and so on. The second perspective conceptualises the influential nature of these natural phenomena in combination with societal structures as conditions surrounding the human being that form and shape the internal and external characteristics of mankind. Although we may not have complete control over the latter, there are certainly lessons we can extract from the former to advance the latter.

Lessons of harmony, tolerance, and coexistence are illustrated with such clarity and precision in the natural environment around us. To explain this through a rather simplistic analogy I draw upon the example of a seemingly ordinary yet not so ordinary flower. The journey of a flower begins with a seed embedded in a habitat over which it has no control i.e. the soil. In this soil there are other species such as worms, ants, woodlouse, millipede etc. communalising the same territory and utilising the same resources and each one of them is on its own journey. However, this does not hinder nor halt the growth or journey of the flower; it continues to bloom and coexist whilst tolerating the unfamiliar journeys of other organisms; it advances its life in harmony alongside and amidst this diversity of plants and creatures surrounding its existence. It also reinforces this diversity by attracting species of a different kind: the bees, butterflies, and birds. Albeit a telescopic illustration it may serve to demonstrate, from an alternative perspective, why we are able to witness such consistent harmony and organisation on a grander scale when we stop and look at the nature around us.

Accordingly, where you live, the society within which you live, your family, your friends, your colleagues, the cultures and traditions you are raised in, and the religion you live by will shape your understanding of life and reality. These factors will also shape your views, your ideas, your thoughts, and your opinions. However, as beings of agency, and unlike the flower, we have the capacity to modify the influence of these factors tailoring them to befit our individual journeys. The priority we give to one or more of these factors can improve our behaviour, character, and conduct whereby we become nobler individuals and citizens of the society at large, therefore, facilitating our role and contribution to harmony, tolerance, and coexistence between ourselves and those around us. Alternatively, it may lead us to disturb this harmony and coexistence by steering us towards intolerance particularly of the differences and diversity that surrounds us. This not only interrupts any communal abilities for coexistence but it also obstructs and limits one's individual journey of growth and development.

Differences in one's natural environment do not lead to intolerance between its creatures. Rather, these differences pave a way to coexist whilst enhancing tolerance and respect. In the same manner, we as humans can emulate this harmony and manner of coexistence by taking lessons from nature.

Sana Batul, Arabic Intensive

The Constant Gardener

I will begin with the ending.

At the end of this life we hope to enter the eternal gardens of paradise. It is the efforts and deeds of the believer that will plant seeds and grow them into trees in the ultimate garden.

We spend this entire life with every effort to carefully nurture those seedlings and *in shā Allāh* gain entry into His eternal garden. Therefore the believer can be likened to a constant gardener.

Now back to the beginning.

You start as the seed of someone else; our parents who have prepared the soil, planted the seedlings, watered and sheltered us from foraging birds, animals and insects. They've protected you through the extremes of seasons and now after all their years of effort, they can stand back and admire their efforts in full bloom. Of course, their care does not stop there, but now you have your own garden to grow.

When considering your own garden, every person has a decision to make, do you allow your garden to grow organically, or do you carefully plan to avoid a haphazard and potentially harmful jungle? Let's consider you choose the latter; you begin with so many ideas on how to potentially landscape your eternal garden and ideas flood your mind, each an individual step devised to reach the end goal of the image you have in your mind; what plants to put together, what colour-way of flowers to go for, maybe even a water feature.

However, if you speak to any gardener they will firmly tell you not to plant everything in one go. Instead, they advise you to build your garden in layers. Although doing such thing may

seem tedious and time-consuming, if you were to - in your excitement - plant all of your varying seeds without considering the individual cycle of growth for each plant, your eternal garden won't be so eternal.

So we begin with a few seeds. Like any skill, or hobby, you must train yourself to understand the nuances of the trade you're undertaking. You must start to exercise those green fingers slowly, as you travel through the different seasons, tending to your garden, you slowly figure out what works well; you learn which plants complement and harmonise with one another, which environments are best for certain flowers, which plants need certain supports.

In the same way you gradually plant your seeds and slowly learn to care for each one individually, you should choose and nurture friendships and relationships that will add to your garden, enriching its soil and beautifying its landscape. Season upon season and year upon year, add layers that synergise with what existed before.

As with any garden, along the way, weeds inevitably need to be plucked, an unexpected storm may hit and tear down your fences, or disease could strike your crop and ruin months of effort. But we have to keep going. It may be that you spend this whole life rebuilding, replanting, re-fencing, but in the end, when you reach your eternity, and finally, get up off your knees and wipe the soil from your trousers, you can step back and marvel at the wonder you yourself have cultivated.

Farzana Begum, Alimiyyah Two

Food for Thought

Blessed. *Alhamdulillah*, we are truly blessed to be living in such a multicultural, ‘multifoodal’ society. At our fingertips we can enjoy a wide range of delicious delicacies from around the world; whether it’s Malaysian noodles, Italian pizzas, Mexican tortillas, Spanish paella, Algerian couscous or even a hot portion of fish and chips on a wet, British afternoon. If there is a problem with integration, my stomach can attest otherwise. Indeed we truly get to know our brothers and sisters in humanity over a shared meal. However, there can be a darker side to the food on our plate; most importantly the environmental impact of its production and distribution.

فَكُلُوا مِمَّا رَزَقَكُمُ اللَّهُ حَلَالًا طَيِّبًا وَاشْكُرُوا نِعْمَتَ اللَّهِ إِنْ كُنْتُمْ تَعْبُدُونَ ﴿١١٤﴾

“Then eat of what Allah has provided for you [which is] lawful and good. And be grateful for the favour of Allah, if it is [indeed] Him that you worship.” [16:114]

We are always cautious that what we consume fulfils the requirements of halal; but what of *tayyib*? Here defined as ‘good’, but the meaning of the word includes nuances of ‘purity’ and ‘wholesomeness’. The renowned linguist Raghīb al-Isfahani states in his famous work *al-Mufradāt fī Gharīb al-Qurān* that *tayyib* “originally means all that is appetising to the senses and soul. *Tayyib* food in regards to the Shariah includes something which is permissible, in an amount that is permissible, from a place which is permissible.” Even if our food does fulfil the minimum criteria of *tayyib*, is this sufficient investigation into what we are consuming? Living in a globalised society, the origin and journey that our food takes and the larger ramifications of getting it to its final destination must be considered. For example, much progress has been made in recent years surrounding the issue of ethically-sourced dates, primarily those from Gaza, highlighting the

responsibility of the choices we make and their consequences. We, the consumers, must be aware of the ethical, moral and fundamentally religious obligations we have when exercising our purchasing power. This is not to say that our food does not fulfil the requirements of the Shariah; rather, we should be asking, is it in keeping with the essence and ‘spirit’ of our *dīn*?

The growing movements of veganism and vegetarianism draw our attention to the environmental and ethical issues surrounding meat and dairy, not only in their consumption but also in their production and distribution. It is not the intention of this article to rally support to the banner of vegetarianism, nor is it in its remit to discuss the religious legality of dietary choices. Rather, its aim, in the very least, is to create pause for thought on what it actually is that we are putting into our mouths? How are we nurturing this gift that is our body? What ‘food-print’ has our meal left behind?

Society’s demand for instant gratification, especially with regards to consumer goods, has impacted not only our individual lifestyles and health, but also the environment globally. Some of our households consume meat every day and many feel unsatisfied if their meal does not contain any meat products. The well-known narration of Umar (ra) reprimanding a companion for buying meat two days in a row is caution to this. Indeed meat is readily available and reasonably cheap, so we could not be accused of depriving our fellow brothers of food, at least not in our society. But we live in a globalised world; while there is excess food in some parts of the ummah, in other parts, our brothers and sisters are starving and malnourished.

Moreover, an argument can be made against the quality of the meat that we are consuming. When we pay £2.50 for a can of drink, a portion of fries and six baby chicken wings, surely we

must consider that there might be something wrong or at least dubious with what we are eating. More expensive food is not necessarily better, but we should be mindful of the reasonable cost of producing food in a halal and *tayyib* way. The condition and welfare of the animal impacts on the quality of the meat and with the addition of hazardous preservatives, additives and hormones, how healthy can it truly be? What nutritional value is it actually providing? Can it really be regarded as good, pure and wholesome food? We have the power to choose whether we buy produce whose welfare has been wholly disregarded and subjected to unnecessary change and processing, or to buy organic, free range and sustainable goods in keeping with the values of our *dīn*.

The consumers' constant need for cheap produce ultimately drives demand. The British dairy industry, the colossal expanse of greenhouses in Almeria, Spain and the destructive palm oil plantations in Malaysia and Indonesia⁸ are all testament to this. In the overly extreme capitalist society in which we live, ethical, environmental and nutritional issues are often side-lined in the interests of greater profits and availability. However, our consumer power can change the behaviour of big corporations that have the means and ability to do better.

"Do the best you can until you know better. Then when you know better, do better."

So the next time you begin to put a morsel of food into your mouth, pause and ask, has this meal arrived on my plate through a journey filled with *barakah*, or is it missing this most fundamental of ingredients?

Zebayd Alli

The Magnificence of Allah Through His Splendorous Creation

*If I am writing to you...what nature has done,
From the rise of the moon to the birth of the sun.*

The moon and sun are prime elements of nature, and are used at the very beginning of the poem to connote and establish how nature expands beyond humans in proportions. However, humans are the superior and greater creation due to their intellects, yet still nature does far more for humans than what humans do in return, despite being its rightful guardians and responsible for its care.

The use of personification emphasises the power of nature over mankind, and ultimately the power of Allah who is the Creator of all things. Birth is attributed to the sun; however, we know that the sun cannot be born, yet still the work of the sun encompasses human life. Alongside the sun, all of nature supports a human's life; if Allah had not given us the plants, bees, animals, waters and everything else, we would be deprived of the necessities that are required for us to live. Allah has blessed us with nature that offers so much to us, yet we often choose to ignore these blessings.

*Then my pen would dry and silence my voice,
For my heart is captured beyond its choice.
Every painter's brush will draw paintings half done,
Not fully in beauty defined as the mastered one,*

Allah's creation is perfect, even the seeming imperfections in His creation prove perfect. Man-made creation cannot compare. Nature is Allah's work on this Earth. Through understanding nature, we can understand the attributes of Allah.

*His representation is a copy of graceful nature that's true,
For its graceful being cannot be among the captured few,
From the flowing of rivers in sparkling silver streams,
To the wide-open prairies and fields of one's dreams,*

There is no limit to what Allah can do. We can travel through water and land, arriving at the same conclusion, that Allah is superior and beyond our comprehension. We cannot even understand the creation, let alone the Creator.

*From the stars that shine with the hopes of man,
Making each one of us to them, just another fan,*

A vast array of nature surrounds us but we remain busy in our daily lives and pay no attention to the creation. Nature does not need us to appreciate it in order to continue its duty, just as Allah does not need us to glorify Him. Rather, humans need to appreciate nature and praise Allah for all that He has given us, for our own betterment. Allah is the Sustainer, He nurtures His creation in ways which we cannot apprehend.

*To whom such glory of beautified nature attained,
Who parted heaven and Earth and aloft the skies maintained,*

*To whom such perfection and greatness we relate,
If not to Allah alone, and in his creation, we contemplate,*

In the end, we do not relate this perfection to nature itself, but to the Creator, who created nature and everything beyond. The poem employs nature as an extended metaphor for the magnificence of Allah and His divine power. Thus, our connection to nature is a means for us to gain closeness to Allah.

Let us make a habit of contemplating over His creation, with the ultimate goal of pleasing Him and attaining *jannah*.

Aysha Saifullah, Arabic Intensive