

**THE PROVISIONS OF WATER AND GARBAGE
POLLUTION IN STREET, DRAINAGE AND BUILDING
ACT, 1974: A VIEW IN ISLAMIC LAW**

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Abstract: *The statute relating to environmental conservation plays an important role to protect water and garbage pollution. The establishment and enforcement of the Street, Drainage and Building Act 1974 is to protect the people's rights and interests in order to safeguard the environment from being polluted. There are a few provisions in this Act relating to water and garbage pollution and protection of water resources from any pollution. Therefore, this article will examine the provisions in relation to water and garbage pollution in the Act and then identify similar discussions in Islamic law, which deal with the protection of water and garbage pollution. A qualitative method is used to obtain data for this paper. Analysis of documents from primary and secondary sources was executed inductively, deductively and comparatively using the Act and Islamic reference sources which was then documented in a descriptive report.*

Keywords: *Islamic Law, Malaysian Law, Environmental Conservation, Water Pollution.*

Abstrak: *Statut yang berkaitan dengan pemuliharaan alam sekitar memainkan peranan penting bagi melindungi pencemaran air dan sampah. Pembentukan dan penguatkuasaan Akta Jalan, Parit dan Bangunan 1974 adalah bertujuan untuk melindungi hak dan kepentingan rakyat dalam aspek perlindungan alam sekitar dari tercemar. Dalam Akta ini, terdapat beberapa peruntukan yang berkaitan dengan pencemaran air dan sampah serta perlindungan sumber air dari sebarang pencemaran. Oleh itu, artikel ini akan mengkaji peruntukan berhubung dengan pencemaran air dan sampah yang terdapat dalam Akta dan kemudian mengenal pasti perbincangan yang sama dalam undang-undang Islam, yang*

berhubung dengan perlindungan air dan sampah. Kaedah kualitatif digunakan untuk mendapatkan data dalam menyediakan artikel ini. Analisis dokumen dari sumber primer dan sekunder dijalankan dengan cara induktif, deduktif dan komparatif antara Akta dan sumber rujukan Islam. Selepas data dikumpulkan, ia ditulis secara deskriptif.

Kata Kunci: *Undang-undang Islam, Undang-undang Malaysia, Pemuliharaan alam sekitar, Pencemaran air, Pencemaran sampah sarap.*

INTRODUCTION

Due to the rapid expansion of settlement development activities together with the excessive increase of industrial estates for the purpose of providing employment opportunities to local residents, it has led to changes in the environment. These changes include water, air and garbage pollution, as well as stench.

Water and garbage pollution are among some of the serious forms of pollution in our country today. Half of the rivers in our country are tainted, involving 244 out of 473 rivers (The Sun 26/5/2016). Most of these rivers are located within the municipality. They are contaminated from a variety of sources among others are plants, industrial waste and commercial premises waste. Apart from the kinds of pollution cited, our pollution issues are also caused by sediments resulting from land development activities that deal with plantation and commercial replanting purposes. The contaminated water will flow into the river and pollute the river water. Not less than 20 million tons of contaminated water flows into the river and sea everyday. This contaminated water brings together waste and garbage from agricultural activities and industrial chemicals.

Due to the problem of water pollution, it has caused a significant reduction in the quality of rivers in the country. This water pollution not only causes problems and adverse effects on humans, but it can also disrupt the quality of life of flora and fauna living in water.

As water sources and rivers play an important role in our life, better care and monitoring should always be taken to ensure the

sustainability of these resources. This is because if we look at the overall quality of rivers and water resources in our country, there has been a diminution in the index value of water quality in most rivers including the rivers in the rural areas of Sabah and Sarawak.

Such a situation is likely to persist as development activities that involve the environment and water resources are constantly occurring. Various human activities can be linked as a factor to water pollution, including animal husbandry, industrial construction, placement development, sand mining and quarrying activities.

All the above mentioned issues need to be resolved holistically. First, it might be tackled through non-legal approaches. This could include the types of education, research, monitoring, public policies, guidelines and development plans. For the second part, it must be through the enforcement of the law. The Street, Drainage and Building Act through the second part, will play an important role in the preservation of the environment to safeguard against water and garbage pollution.

Following that, as we have known, Islam as a way of life for all human beings has provided a complete legal system to humans in terms of crime, contract, trust, banking, tort, and so on. A question arises, how does Islam view environmental preservation? Is there any discussion related to water and garbage pollution made by Muslim jurists? Therefore, this article will look at the provisions relating to water and garbage pollution provided in the Act and then compare with the views of Islamic law.

RESULTS AND DISCUSSION

Water Pollution

The issue of water pollution is an issue that is often raised in mainstream newspapers and sometimes it is a major issue in television broadcasts. Although this issue is often addressed by certain parties, whether by the government, local authorities, environmental management associations, etc., if it is not publicly supported by the local people, especially by the industry, this issue

will always arise. The constant pollution of water normally occurs through pollution of the river with toxic waste, garbage, industrial waste, animal faeces and so on. If this is not taken seriously by the authorities, it is possible that someday, we will lose quality drinking water resources as well as be unable to enjoy the beauty of the river as in the 60s, 70s and early 80s.

What we have to realize is that all of these damages and pollution are not happening due to the forces of nature, but they happen through the actions of man. That is why the angels were astonished when Allah SWT mentioned that He wanted to create humans to be caliphs in this world. The emotional consequences arise because the angels have known that man is equipped with lust, as well as faith but, in ordinary situations, lust would overcome faith. This can be seen in the dialogue between Allah SWT and His angels in al-Baqarah verse 30 which states that:

Behold, thy God said to the angels: I will create a vicegerent on earth.” They said, “Will Thou place therein one who will make mischief therein and shed blood? Whilst we do celebrate Thy praises and glory Thy holy (name)?” He said: “I know what ye know not”.

The dialogue between Allah SWT and the angels as illustrated in the above verse proves that the angels know that humans are creatures who like to do damage, including destroying the environment via pollution. So it is not surprising if there are various types and forms of damage done by human hands which is happening today. Not only damage and pollution to the environment, but also murder, theft, robbery, malpractice, fraud, corruption and so on often happen in our society. That is exactly the anxiety and worry expressed by the angels in the above verse. Therefore we are obliged to take care of this environment properly and perfectly so that no pollution will occur.

With the passion and lust that exist in man, there are various forms of damage that have occurred through man’s selfish attitude without regard for others. Forest and bushes are exploited for greed until it affects the catchment areas which will eventually pollute the river. The polluted river water will then flow into the sea. When it comes to the sea, it will affect coral reefs which are home to a variety of

marine life. Marine pollution and sediment either in the rivers or seas can disturb the natural ecosystem that ultimately threatens human life. All these problems have actually happened through the actions and activities of man.

So we can note that any acts of a person that can cause water pollution, regardless of whether the water is inland waters, subterranean water resources, or water in an estuary or sea adjacent to the coast¹, and it includes the act of water pollution of any reservoir, pond, lake, river, stream, canal, drain, spring, well, any part of the sea abutting on the foreshore, and any other part of natural or artificial surface or subsurface water², such an act is regarded as wrongful action according to Islamic law. Islamic law is especially concerned with the relationship between individual and individual and likewise relations between neighbours. A person cannot discharge any polluting matter that can contribute pollution to his neighbouring well or drain. If such situation occurs, the person can be ordered to terminate his activity of pollution or remove the injury.

If the relationship between an individual and another an individual is well taken care of by Islam, it is certainly well-regarded by Islamic law in the case of interest and benefit to the public.

In fact, there are a few acts and regulations that provide power and jurisdiction as to water pollution and protection of water resources from any pollution. Among them are:

- i. Environmental Quality Act 1974 (Act 127).
- ii. National Forestry Act 1984 (Act 313).
- iii. Street, Drainage and Building Act 1974 (Act 133).
- iv. Local Government Act 1976 (Act 171).
- v. Enactment of Controls on Pigs 1980.
- vi. Fisheries Act 1985 (Act 317).
- vii. Protection of Wild Life Act 1972 (Act 76).
- viii. Petroleum Mining Act 1972.
- ix. Waters Act 1980 (Act 418).
- x. Land Conservation Act 1960.

¹ See section 7A(2), Waters Act 1920.

² See Regulation 2, Environmental Quality (Sewage and Industrial Effluents) Regulations, 1979.

- xi. Sewerage Services Act 1993 (Act 508).
- xii. Environmental Quality (Sewage and Industrial Effluent) Regulations 1979.
- xiii. Environmental Quality (Sewage) Regulations 2009.
- xiv. Environmental Quality (Prescribed Premises) Scheduled Wastes Treatment and Disposal Facilities Regulations 1989.
- xv. Environmental Quality (Prescribed Premises) Crude Palm Oil Order and Its Amendments (1982) 1977.
- xvi. Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) (Amendment) Order 1995.

Among the above Acts and Regulations, therefrom is referred to one of them, that the Street, Drainage and Building Act, 1974 (Act 133), Section 55 (2) provides:

“No water closet or privy shall be allowed to communicate with any river, canal, stream, pond, lake, sea or with any public surface or storm water drain or sewer without the prior written permission of the local authority responsible for such drain or sewer or, in any other case, without the consent of the State Authority”.

Section 55 (3) of the Act provides:

“No trade effluent shall be discharged into or allowed to communicate with any river, canal, stream, pond, lake, sea or with any public surface or storm water drain or sewer without the prior written permission of the local authority responsible for such drain or sewer or, in any other case, without the consent of the State Authority and the local authority or the State Authority may impose conditions to such condition”.

The sections above provide wrongful actions and actions of nuisance in the case of sewers and drains. Other than the above sections, provisions in sections 86, 87, 88, 89 and 90 of the Act are accommodated to cope with cases of nuisance caused by waters and buildings. The sections also provide the right and power to local authorities to take further action when receiving complaints from

the public as to nuisance caused by water pollution or wreckages of buildings.

When referred to the Islamic law, the same message was provided in the Islamic legal text. It was enacted in *Majallat al-Ahkam al-`Adliyyah* (The Islamic Civil Law), a special section related to water pollution states that:

“If near someone’s water well, his neighbour makes a cesspit or a sewer and it causes the water of the well to become bad, he may be made to remove the injury. If the damage cannot be stopped in any way, he may be made to close up the cesspit or sewer”³.

Even though the wells are no longer present in our urban communities, they still exist in remote areas. But, if seen from the point of contamination of drinking water either from well, river or stream, it can happen at any place, whether in the city or in the village. In brief, pollution is strictly prohibited in whatever ways whether it is happening directly or indirectly. Therefore, the action of polluting drains and rivers are strictly prohibited. In fact, most of the contamination of water which occurs at present is directly caused by human hands. Thus, currently many rivers have been found to be contaminated, and there is a recent report of water pollution in a river in Pontian, Johor from a rubber factory which has resulted in 50 freshwater fish farming operators losing about RM 500,000.00 due to death of their fishes. It has also even caused skin diseases. This event occurred due to the discharge of chemicals from the factory that caused the fishes which were reared in cages to be poisoned and die. Apart from water contamination, the rubber factory also caused air poisoning.⁴

Garbage Pollution

There are often reports in the newspapers and television as to issues of environmental pollution due to indiscriminate garbage disposal. Such things not only result in an eyesore, but may invite various types of infectious diseases. This issue often occurs in areas that are

³ *Majallah*, article 1212.

⁴ *Berita Harian*, 18 April 2005, p. 9.

not managed by the local council. Most cases for areas under the administration of the local council are related to placing construction materials nearby the main road without prior permission from the local authority, especially involving contractors working on the expansion of a building or premise. Aside from cases of rubbish or garbage pollution there are cases involving objects being dropped or thrown from vehicles.

There are several statutes that provide particular sections with regard to garbage pollution. Among them are:

- i. Street, Drainage and Building Act 1974 (Act 133).
- ii. Uniform Building By-Laws 1984.
- iii. By-Laws of the Market (Federal Territory) 1984.
- iv. Expressway Authority Act of Malaysia (Corporation) 1980.
- v. National Forestry Act 1984.

Section 46 (1) (e), (f) and (g) of Street, Drainage and Building Act 1974 (Act 133) provide:

- (1) Any person who-
 - (e) deposits or causes to be deposited timber, scrap iron, derelict vehicles or any part thereof, waste materials or other article or thing in any public place;
 - (f) deposits or causes to be deposited garden refuse, kitchen refuse or trade refuse or any other article or thing in any public place; or
 - (g) causes or allows any vehicle to rest on any footway,

shall be guilty of causing an obstruction and may be arrested without warrant by any police officer or any officer or employee of the local authority authorized in writing on behalf by the local authority and taken before a Magistrate's Court and shall be liable upon conviction to a fine not exceeding five hundred dollars, and in the case of a second or subsequent conviction to a fine not exceeding one thousand dollars.

Section 47 (1) (a), (b), (d), (e) and (g) provide:

- (1) Any person who-
 - (a) places, deposits or throws or causes or allows to be placed, deposited or thrown any dust, dirt, paper, ashes,

- carcass, refuse, boxes, barrels, bales or other article or thing in any public place;
- (b) keeps or leaves any article or thing whatsoever in any place where it or particles therefrom have passed or are likely to pass into any public place;
- (d) throws, places, spills or scatters any blood, brine, swill, noxious liquid or other offensive or filthy matter of any kind in such a manner as to run or fall into any public place;
- (e) drops, spills, or scatters any dirt, sand, earth, gravel, clay, loam, stone, grass, straw, shavings, sawdust, ashes, garden refuse, stable refuse, trade refuse, manure, garbage or any other thing or matter in any public place, whether from a moving or stationary vehicle or in any other manner;
- (g) throws or leaves behind any bottle, glass, can, food container, food wrapper, particles of food or any other article or thing in any public place;

shall be guilty of an offence under this section and may be arrested without warrant by any police officer or by any officer or employee of the local authority authorized in writing on behalf by the local authority and taken before a Magistrate's Court and shall be liable upon conviction to a fine not exceeding five hundred dollars, and in the case of a second or subsequent conviction to a fine not exceeding one thousand dollars.

Section 47(2) of the Act 133 also provides a jurisdiction to the court for taking legal action to anyone who fails to take precautions on his garbage and building wreckage. It provides:

47 (2) Any person who, during the construction, alteration or demolition of any building or erection or at any time whatsoever,

(a) deposits, drops, leaves or places, or permits or causes to be deposited, dropped, left or placed in or onto any public place, any stone, cement, earth, sand, wood or other building material, thing or substance; or

(b) fails to take reasonable precautions to present danger to the life, health or well-being of persons using any public place or any other person from flying dust or falling fragments or from any other

material, thing or substance, shall be guilty of an offence under this section and may be arrested without warrant by any police officer or by any officer or employee of the local authority authorised in writing on behalf by the local authority and taken before a Magistrate's Court and shall be liable upon conviction to a fine not exceeding one thousand ringgit, and in the case of a second or subsequent conviction to a fine not exceeding two thousand ringgit.

When we refer to the Islamic law texts, the junk pollution issues can be seen in many instances. It begins with the Prophet's prohibition from acts that can hurt neighbours. Islam particularly demands that we respect our neighbours. Among actions that are prohibited from being done to neighbours is placing waste in the yard which is not well-managed. It can cause dirty, unclean, disgusting and unpleasant odours. This is based on a hadith of the Prophet, peace be upon him (pbuh):

“A person will not enter Paradise if his neighbour does not feel comfortable (safe) from his wrong actions”.⁵

In another hadith, the Prophet (pbuh) said:

“A person is regarded as not having a belief when his neighbours do not feel secure with his monstrous actions”.⁶

In another hadith:

“By Allah, one does not believe, for the sake of Allah someone will not believe, by Allah, a person will not believe. Then the Prophet was asked, who (they) O Messenger of Allah? He said: People who annoy neighbours by their wrong actions”.⁷

When we refer to Muslim jurists texts, we find that there are discussions on this matter in their writings. It has been discussed by

⁵ Muslim, *Sahih Muslim*, Kitab al-Iman, no. 73, vol. 1, p. 68; Ibn Rajab, *Jami' al-'Ulum wa al-Hukm*, vol. 1, p. 344.

⁶ Ibn Rajab, *Jami' al-'Ulum wa al-Hukm*, vol. 1, p. 302.

⁷ Al-Bukhari, *Sahih al-Bukhari*, Kitab al-Adab, no. 6016, vol. 4, p. 149.

some scholars of the Hanafi school of law namely Muhammad bin al-Hasan al-Shaybani (d.189H) and Abu Yusuf (d.182H), and a few scholars of the Shafi'i school of law.

They say that pieces of rubble cannot be left on the road, because it can interfere with the public. If it is left without proper action, it can be regarded as junk pollution. If the authorities have requested to remove the debris of a building, but the owner of the debris does not take any proper action, the liability for damages is charged against the owner if it causes harm to others.

In terms of commencement of enforcement notice to remove the wreckage of a building, there is a slight disagreement between Muhammad bin al-Hasan al-Shaybani and Abu Yusuf. According to Muhammad bin al-Hasan al-Shaybani, when the notice is given while the building is about to collapse, and he is requested to pull it down but ignores that until it falls down and a person stumbles and is injured by it, the owner is held liable. But Abu Yusuf denies the liability of the owner of the building unless another request is made for the removal of the debris and wreckage from the road after it falls down. For him, the first notice is merely to watch out for the condition of the building, rather than the removal of the wreckage. So, he takes an exceptional view by requesting the authorities to make another request for the removal of the wreckage from the road to the owner of the collapsed building. At the same time, he argues that the falling of the building onto the road is not made by his own volition. There is a need for him to be requested anew to remove the wreckage which has started to cause another disturbance.⁸

According to the Shafi'i school of law, any contaminated waste on the road must be removed. The obligation to remove is on the responsibility of the owner of the waste. If the waste has caused harm to another person, the owner of the waste will be held liable.⁹

Briefly, the authorities should take appropriate steps for any action or act that may cause pollution and ultimately disrupts the public

⁸ Al-Kasani, *Bada'i' al-Sana'i'*, vol. 7, p. 284; al-Mawsili, *al-Ikhtiyar li Ta'lil al-Mukhtar*, vol. 5, p. 47; al-Marghinani, *al-Hidayah*, vol. 4, p. 197; al-Haskafi, *al-Durr al-Mukhtar*, vol. 2, p. 466; al-Baghdadi, *Majma' al-Damanat*, p. 185. See also al-Shirazi, *al-Muhadhdhab*, vol. 3, p. 207.

⁹ Al-Nawawi, *Minhaj al-Talibin*, p. 284; al-Khatib, *Mughni al-Muhtaj*, vol. 4, p. 86.

including public property such as roads, by requesting for the owner of the junk to abolish it. Throwing an object on the road is a tort and crime as it may cause harm to the public. If therefore a person carries a pile of wood on the road and some of it falls down and a passer-by suffers injury thereof, the person is liable.¹⁰

Similarly, the Islamic law strictly prohibits a person from placing, putting, throwing or permitting to place any stone, gravel, pile of soil, sand or other objects on the road or in any place of public assembly without legal authorization. If this is done and it can cause injury or damage to another person, the owner of the object is liable.¹¹ If this is done by a person, the local authorities have full power to request for the object(s) to be removed and disposed of.

Water Pollution Factors

The origin of natural water is clean and there is no harmful pollution. Natural pollutants such as mossy, turbidity due to sedimentation or water odour resulting from weeds and wood foliage are a common matter and can be accepted as a natural and harmless factor. The problem of pollution here is due to the rapidity of development whether arising from the aspects of housing or industrial development. If this development area connects to a water drainage or river, the development activities may affect the local water quality level. Thus it can be noted here some of the key factors which have been identified that can cause the quality of water to be affected.

Animal Husbandry

It is one of the main factors that can pollute the river. Livestock farming activities will usually be done near the stream. This is to

¹⁰ Al-Marghinani, *al-Hidayah*, vol. 4, p. 194; al-Khatib, *Mughni al-Muhtaj*, vol. 4, p. 205; al-Zayla'i, *Tabyin al-Haqa'iq*, vol. 5, p. 146; *al-Fatawa al-Hindiyyah*, vol. 6, p. 43; Sayyid 'Abd Allah Husayn, *al-Ajwibah al-Khafifah*, p. 387; *Fatawa Qadikhan*, printed with *al-Fatawa al-Hindiyyah*, vol. 3, p. 251 and 458; al-Shaybani, *al-Jami' al-Saghir*, p. 514-515; al-Nawawi, *Minhaj al-Talibin wa 'Umdat al-Muftin*, p. 306; *Majallat al-Ahkam al-'Adliyyah*, article 926; al-Baghdadi, *Majmac al-Damanat*, p. 149; Damad Afandi, *Majma' al-Anhur*, vol. 2, p. 626; al-Haskafi, *al-Durr al-Mukhtar*, vol. 2, p. 463.

¹¹ Al-Haskafi, *al-Durr al-Mukhtar*, vol. 2, p. 462-463; al-Marghinani, *al-Hidayah*, vol. 4, p. 192-193; Ibn Duwayyan, *Manar al-Sabil*, vol. 2, p. 334.

facilitate the management of waste disposal of animals and other wastes. In addition, it can also save cost to income ratio if the breeders need to provide or construct their own reservoir which requires a certain amount of money for the construction and supervision of the reservoir.

If we refer to a study made by Nordin and Hamirdin (2005), the Tuaran River was contaminated with pig dung which caused a serious decrease in water quality. The results showed that it was contaminated with Ammonia Nitrogen (NH₃) of 8 mg/1, Chemical Oxygen Demand (COD) of 1008 mg/1 and Biochemical Oxygen Demand (BOD) of 193 mg/1 (ECD 2001).¹²

Industry

Major problems arise when industrial developments are near to water drainage. Most industries produce heavy metals which eventually become industrial solid wastes. These heavy metals are finally discharged into drains or water strands to flow directly into the river. From the stream it flows into the sea and pollutes the coastal area. The results of a study conducted by a group of Universiti Kebangsaan Malaysia researchers on the coast of Malacca, found that the Water Quality Index was somewhat polluted in the area of Pantai Kundur, Dusun Beach and Tanjung Kling. The pollution that occurred in the coastal area was caused by industrial waste materials found along the coast. The chemicals produced by the factories were released into the stream and drainage which eventually flowed into the sea. Consequently, there has been an increase in COD due to the increased chemical processes in the water.¹³

Sand Mining

The construction of buildings today mostly uses sand instead of timber or wood. Therefore, demand for sand is very high from building developer companies. Consequently, many private

¹² Nordin Sakke & Hamirdin Ithnin, Sungai Tuaran dan Potensi Pencemaran: Satu Kajian Awal, pp.132-133.

¹³ Kadir Arifin, Muhammad Reza, Jamaluddin Md. Jahi, Kadaruddin Aiyub, Azahan Awang & Muhammad Rizal Razman, Status Air Pantai Peranginan Melaka dan Pengurusannya, p.113.

companies appear in order to work on sand mining to supply the material. The sand is pumped out of the river and placed on the river banks for distribution. The pumping process in the river can reach a depth of 3-4 meters. This process can cause river banks to collapse and also increases the thickness of the mud layer at the bottom of the river instead of the sand column that has been inhaled. The most noticeable impact on the pumping process is the increase in turbidity of the river water, and it becomes more serious during the dry season. This is a major issue in the country not only in Peninsular Malaysia but also in Sabah and Sarawak.

Housing and Restaurants

There is no doubt that many settlements have been established nearby water drainage and rivers. Other than settlement houses, restaurants and food stalls are also built close to ditches, waterlines and rivers. These premises produce food wastes and garbage in their daily activities which are finally released into water strings. Such an ongoing situation without any reasonable action by the authorities may result in the deterioration of water quality.

In addition to the existence of restaurants and eateries on the edge of rivers and streams, the coastal restaurants have grown very much across the country nowadays. Among some of the beaches and seafronts that are famous for dining in our country are Kuala Perlis in Perlis, Kuala Kedah, Tanjung Dawai and Pantai Merdeka in Kedah, Kuala Sepetang in Taiping, Perak, Bagan Lalang Beach in Sepang, Selangor, Kundur Beach and Tanjung Kling in Malacca, Sabak Awor in Muar, Johor, Cahaya Bulan Beach in Kelantan, and along Cherating beach and Tanjung Lumpur in Pahang.

Hotels and Chalets

The tourism sector is rapidly growing in our country today. Tourists from China, the Middle East and so on numbered more than 26 million people in 2016 and it is expected to exceed 30 million people in 2017.¹⁴ Subsequent to such a development, the hotels and chalets industry expanded rapidly to cater to customer demand.

¹⁴ (<http://www.utusan.com.my/news/national>, 8/1 / 2018).

Thus, many hotels and chalets are developed in coastal areas that eventually result in soil erosion causing sediment flow in areas along the coast. A study by Kadir Arifin et al. (2005) found that the quality of seawater along Klebang Beach and Tanjung Kling were affected due to the many hotels that had developed along the coast. Some of these hotels include the Riviera Bay Resort and Malaysia Tanjung Kling Motel.¹⁵

Provisions in the Street, Drainage and Building Act 1974

Court action may be taken on all forms of water pollution mentioned based on several sections that are provided in the Street, Drainage and Building Act 1974. Other than sections 55(2) and (3) that are already mentioned, civil action can be taken under sections 50(1), 51(1)(2)(3), 52(1), 53(1)(2)(3) and 54(1)(2). For instance, in the provisions of sections 54(1) and (2), section 54(1) provides:

(1) The local authority shall cause the surface and storm water drains, culverts, gutters and water-courses under the control of the local authority to be so constructed, maintained and kept as not to be a nuisance or injurious to health and to be properly cleared, cleansed and emptied and, for the purpose of flushing, cleansing and emptying the same, it may construct and place, either above or under ground, such reservoirs, sluices, engines and other works as are necessary

Provided that the local authority shall, before entering any private property for the purpose of carrying out any work under this subsection, give reasonable notice in writing on that behalf, and shall in carrying out such work do as little damage as may be possible and shall make full compensation for any damage done.

(2) The local authority may, with the sanction of the State Authority, cause all or any of such surface and storm water drains, culverts, gutters and water-courses to communicate with and be emptied into the sea or other fit place, or may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell or otherwise dispose of the said refuse for any

¹⁵ Kadir Arifin, Muhammad Reza, Jamaluddin Md. Jahi, Kadaruddin Aiyub, Azahan Awang & Muhammad Rizal Razman, Status Air Pantai Peranginan Melaka dan Pengurusannya, p.113.

agricultural or other purposes as deemed expedient so that it shall not become a nuisance.

Although there is no word of ‘environment’ in the Malaysian Constitution in terms of preservation of water pollution in Malaysia, but with the existence of some provisions in the Street, Drainage and Building Act 1974, it has enabled environmental preservation as well as water resources in our country to be controlled, maintained and well protected. In addition to other acts such as the Environmental Quality Act 1974 (Act 127), the Street, Drainage and Building Act 1974 is a comprehensive statute enacted to protect, guarantee and regulate the quality of water as well as to prevent garbage pollution. It is hoped that the local authorities may enforce this Act to the best of their ability to safeguard the quality of the environment from any pollution.

Islamic View: Water and Pollution in the Quran

Allah SWT mentioned about the rain water in Surah ‘Abasa verse 24-32 which stated that:

Then let mankind look at his food - How We poured down water in torrents. Then We broke open the earth, splitting [it with sprouts]. And caused to grow within it grain. And grapes and herbage. And olive and palm trees. And gardens of dense shrubbery. And fruit and grass - [As] enjoyment for you and your grazing livestock.

Based on the above verses, we are all required to use this environment as a place of meditation to know and recognize the Creator – Allah SWT and also the real life. By observing nature, it can answer some of the questions that arise from where the rain falls, who grows the plants, from where we come, for what purpose is living on this earth, where are we going next, who belongs to this nature, what is the responsibility of mankind to this nature and so on. All these will create a sense of awareness about our creation as well as our position in relation to the Creator of this world.

In surah al-Baqarah verse 60, Allah SWT narrated that water is a gift of Allah that must be well-guarded and be grateful. Allah said:

“And [recall] when Moses prayed for water for his people, so we said, “Strike with your staff the stone.” And there gushed forth from it twelve springs, and every people knew its watering place. “Eat and drink from the provision o Allah, and do not commit abuse on the earth, spreading corruption”.

In the above verse it is clearly mentioned to us that we must be grateful for the blessings that Allah has bestowed on us. Thanksgiving is born through obedience to all divine orders including all prohibitions. For those who disbelieve, it is known as evil. This attitude of disbelief invites the wrath of Allah SWT that can be burdened with various hardships and diseases such as cholera. At the time of the Prophet Musa, Allah’s Messenger (may peace be upon him), it was narrated that Allah killed humans at that time about 70,000 people by causing the disease of cholera.¹⁶ Therefore, this should be used as a lesson so that we can always maintain ourselves and the environment as well in line with obeying His will and direction. Any form of damage to the environment must be avoided for the sake of obedience to Allah SWT. If it is not possible, catastrophe, disaster and calamity will happen.

Next, Allah SWT explained that the pollution that occurred on this earth was actually done by man himself. Allah SWT said in surah al-Rum verse 41 which states that:

Mischief has appeared throughout the land and sea by [reason of] what the hands of people have earned so He may let them taste part of [the consequence of] what they have done that perhaps they will return [to righteousness].”

Interpreted, the meaning of “mischief has appeared throughout the land and sea” in the above verse gives a sense of imbalance of rain and drought as well as lack of catches of fishermen’s revenue from the sea. As a result of the natural system that sometimes changes without its inherent nature, its effects can cause crops such as vegetables and fruits to diminish. The damage which has occurred is described as an effect of the behaviour of the immoral human being himself.

¹⁶ Muhammad Said bin Umar, *Tafsir Nur al-Ihsan*, juzuk 1, hlm.20.

Humans are mostly disobedient with Allah SWT. They do all things on the face of the earth as if this earth is their own. Therefore, it is possible that there will be various disasters from Allah SWT as a result of human hands itself. It is therefore our responsibility to safeguard the environment as much as possible and at the same time to create awareness to the public to prevent all forms of damage from occurring on this face of the earth. If environmental destroyers exist somewhere, the impact of harm will be felt by all the people living in the area. This coincides with a hadith of Rasulullah SAW, which states that:

“Indeed, perpetrator when he dies, human, land, plant and animal are free from his crime.”¹⁷

The meaning of the above hadith illustrates that the intruder of the environment is highly despicable and he is strongly disliked by the creatures on this earth. When he dies, all creatures are happy with his death.

CONCLUSION

There are several statutes relating to the care and control of the environment in Malaysia. It is clear that the government takes serious action in relation to the preservation of water and garbage pollution in our environment so that it is always controlled and preserved. One of statutes is the Street, Drainage and Building Act 1974. This statute is enacted to preserve the environment from any destructive and polluting activities to trenches and water drainage. If it is implemented properly, the environment will be preserved from any unwanted form of pollution.

In relation to this, the Islamic law also provides related discussions on environmental pollution especially on water and garbage pollution. There are several verses of the Quran and the hadith which instruct mankind to maintain water resources and not pollute the environment including not causing water quality deterioration. Further, the Islamic

¹⁷ Al-Bukhari, *Sahih al-Bukhari*, no. hadis 6512; lihat juga Ibn Kathir, *al-Misbah al-Munir fi Tahdhib Tafsir Ibn Kathir*, juzuk 7, hlm.123.

scholars discussed this in more detail in their writings regarding the care and preservation of the environment. If we look at all the suggestions and discussions related to environmental care whether in the Quran, the hadith or the views of the Muslim scholars, they all prohibit us from doing any action or activity that could cause pollution to the environment. Even Islam allows that court action for fault liability should be taken against those who pollute water resources. Subsequently, this issue has also been discussed directly by environmental scientists in various aspects and categories. In conclusion we find that Islam strongly and robustly supports the provisions contained in the Act as to prohibition and control of the environment from any pollution for the well-being and sustainability of the environment.

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