

THE PARAMETERS OF ISLAMIC LAW AND THEIR APPLICATIONS IN THE LEGAL SYSTEM FOLLOWED TO DEVELOP AND PROTECT FORESTS IN SAUDI ARABIA

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ABSTRACT

The texts of the Sharī'ah (Islamic law) attended keenly to all matters that will bring benefit and value to people's religious and worldly affairs. Moreover, since the laws of Sharia are holistic and general. These clear and appropriate laws related to the development and protection of forests, and their applications in the Saudi laws and provisions related to the development and protection of forests, were to show the extent to which these statutory laws and provisions are linked and based on Sharia. These rules and laws also show the keen attention of the Saudi Arabian government paid to the development and protection of the forests supports any relevant procedure and measure that would organise this development based on the chief statutory sources – the texts of the Qur'ān and the Sunnah- and the enacted statutory provisions related to the forests.

Keywords : development , law , environment, benefit , protection

The parameters of Islamic law and their applications in the legal system followed to develop and protect forests in Saudi Arabia

INTRODUCTION

Praise be to Allah, and prayers and peace be upon the Messenger of Allah, his family, his companions, and those who followed him, and then:

One of God's blessings to the Kingdom of Saudi Arabia is that it derives its enacted rules and laws in all walks of life from the texts and rules of Sharia (Islamic law) . Since the constitution of the state is premised on the holy Koran and the Sunnah. Also , the rules and purposes of the Sharia have guaranteed the regulation of all areas of religious and worldly life, including the development of the environment and its components in general, and the forests in particular; so as to realise and achieve the primary purpose of its existence on earth.

The Kingdom of Saudi Arabia has adopted regulations and policies concerned with the care of the components of the environment in general, and the development and protection of forests in particular. The Ministry of Agriculture has taken the following procedures: The national strategy and action plan for forests in the Kingdom of Saudi Arabia,. The (2030) vision listed several projects and initiatives such as the Saudi Green Initiative and the Green Middle East, the National

Centre for the Development of Vegetation Cover, the supervision of the management, investment and preservation of forests and national parks, adopting anti-desertification program with its relevant activities, such as the initiative to develop the capacity to get ready for drought, mitigate its severity, transgressions and violations, punish the violators and transgressors, and finally participating in the March 21 World Forest Day.

As it is difficult to extrapolate the rules and purposes of the Sharia that play primary role and contribute to the development and protection of forests, it is sufficient to mention examples or general aspects of them to demonstrate its impact and applications in the environment law and its effective code, including a number of regulatory provisions in the forests, through this second scientific paper – entitled **(The parameters of Islamic law and their applications in the law followed to develop and protect forests in Saudi Arabia)**

RESEARCH SIGNIFICANCE AND ITS RATIONALE:

In addition to what has been mentioned earlier, the importance of the topic and its rationale could be fathomed from the following:

- Underscoring the attention given by the Islamic Sharī’ah to the development and protection of forests.
- Underscoring the branch and root attitude of the Sharī’ah towards addressing a walk of life.
- Highlighting the eagerness of the Islamic Sharī’ah on safeguarding everything that will protect the earth and beautify it.
- Highlighting the attention given by the statutory provisions of the Kingdom of Saudi Arabia to the development and protection of forests.
- Emphasizing the fact that the Saudi lawmakers relies on the constitution of the country which was premised on the Qur’ān and the Sunnah.

RESEARCH OBJECTIVES:

- Contributing to raising and spreading awareness about the necessity of the development and protection of the forests.
- Highlighting the role of the Kingdom of Saudi Arabia in paying attention to the development and protection of the forests.
- Highlighting the fact that the enacted rules and laws are an extension of the Sharī’ah provisions on giving the legal backup for the development and protection of the forests.
- Underlining what distinguishes the Kingdom of Saudi Arabia constitutionally and regulatory-wise on the development and protection of the forests.

RESEARCH LIMITATIONS:

The limitations of the research are confined to the injunctions of the Qur'ān and the Sunnah, and the Saudi laws related to the forests.

RESEARCH PROBLEMS:

- What are the Sharia rules referring and indicating the development and protection of forests?
- What are the applications of Sharia rules and the environmental enacted rules and provisions in Saudi Arabia that achieve the development and protection of forests?
- How closely connected are the Saudi constitution and its provisions in achieving forest development and protection?

LITERATURE REVIEW:

There are various scholarly literatures on the issue of forests and the environment and its components, whether academic researches or others. However, this paper is distinguished from the previous literatures by closely correlating the issue of development and protection of the forests with the general and specific texts of the Sharī'ah and the extant statutory provisions enacted in the Kingdom of Saudi Arabia.

RESEARCH METHODOLOGY:

The research was mainly based on the simple inductive method, in addition to the descriptive method to extrapolate from the environmental legal system and the most prominent sharia laws related to the subject of the research.

RESEARCH PLAN:

The research was divided into an introduction, and two issues.

Introduction: constitutes the importance of the topic and its rationale, and its objectives, and the research problems, and its limitations, and the literature review, and the methodology of the research and its plan.

Issue 1 : presentation of the most important terminology of the research title.

Issue 2 : highlighting the parameters of Sharia rules and their applications in the Saudi environmental statutory provisions.

Conclusion: listed the most significant findings and recommendations of the research.

Issue 1 : definition of the most important terms of the research title. The title of the research included a number of terms that should to be clarified. To understand easily what is included in the second issue, the most important of these terms are as follows:

And / definition of the term parameters

Parameters in the language: the plural of a parameter from the sign, and it is from everything its presumption, and the parameter of religion: its indications, so the knowledge: the feature, and the sign: the plural of signs (1)

In terminology: the anecdotal and practical evidence through which the extension and connection of the curriculum comes from . (2)

Secondly / definition of the term applications

Applications in the language: a plural of the application and similar to it denoting the thing outstretched (3) and the full space it covered; also, it carries different meanings, including agreement, approval, and hitting or achieving the target.

In the terminology: application is experiencing issues and cases to a scientific or legal rulings or the like.

Third: definition of the term “forest”.

The forest in the language is: place with dense, coiled trees, and it was called that because it hides what is in it, and its plural is forests.(4)

A term defined in the ecosystem as: a large number of plants and trees consisting of one or several types of trees, shrubs, or herbaceous plants in a pure state, or mixed with a shrub density of not less than (10%) of the area of the site, whether these trees are grown naturally or have been grown by humans .

Issue 2 : The parameters of Islamic law and their applications in the legal system followed to develop and protect forests in Saudi Arabia

There are many sharia laws that contributes and highlights the development and protection of forests, whether it is in the same type of these rules or according to the variety of types of rules, whether fundamentalist, jurisprudential, or intent (it has certain meaning or purpose). Likewise, the controls fall under rules and laws. Because the aim of the research is to clarify the parameters of the sharia rules that refereed and highlighted the development and protection of forests, while underscoring their applications in the ecosystem; Whereas the Sharia law in its entirety or majority of them can be applied to forest development legal system or law ; Because of its comprehensiveness and validity for every time and place, and since the number of these rules exceeds the limitation in a number of scientific papers; It is enough for me to apply - briefly - to four parameters of the general or most sharia rules, through which the purpose of this scientific paper is achieved, as follows:

Parameter 1 / rule: Taking into account the interest we can gain.

One of the rules of the universal Sharia is bringing benefits to humankind at all times and places, and the benefit is: benefit, so collecting every benefit, and warding off every harm is a benefit, and it is called (1) interest.

And the interest in Sharia is that which achieves the purpose of the lawmaker in preserving the five necessities of religion, life, mind, offspring, and money. Everything that brings benefit to these necessities and warding off corruption from them is an interest.(2) Al-Shatib stated: “The enactment of laws is only for the interests of the people in the immediate and the future . Ibn al-Qayyim also stated that : The Shari’a is based and relied on judgment and the interests of the people in the life and the hereafter, and it is all justice, all mercy, all interests, and all of its rulings. Every issue deviates from justice to injustice, from mercy to its opposite, from interest to harm, and from (1) wisdom to absurdity.

Therefore, the basis of the Shari’ah is to bring every benefit to humanity and ward off everything that harms them(2)

When the Sharia is concerned with the interests of the people, bringing them good things and awarding off bad ones, and when the forests were among those that interest and benefit people, to bring its benefits and award off its harms; It is imperative that the rule of bringing benefits and averting harm include the development and protection of forests. From this standpoint, we find that the Saudi lawmakers have stipulated statutory provisions and articles in the environmental law that took care of the development and protection of forests, achieving the interests of people and warding off harm from them, including these provisions as follows:

Article 6 of the executive regulations for the development of vegetation cover and combating desertification stipulates (a) the preparation and implementation of a national plan for the sustainable management of forests. B- determining protected forests and allocating them in order to preserve, develop or rehabilitate them, announce them and take the necessary measures to protect them, including fencing them and placing boundary and indicative signs on them (grazing is prohibited in the following areas: A- Protected forests. b neglected forests assigned by the centre. C- The forests determined by the centre, which have not been cultivated for less than (10) years since they were cultivated or where a fire caught to them. D- Forests assigned by the centre, in which studies or research are conducted on them. e- Cultivated forests.

All of the provisions of the above-mentioned laws and codes fall within the interest and prevention of harm, according to what has been decreed from the rules of Islamic law, as stipulated in Article Twelve of the Environmental Law that: (It is not permissible to own the lands of forests, pastures, and national, wild and geological parks, in any manner of disposal. Transfer of ownership), and (It is not permissible to transgress - whether by expansion or creation - on the lands of forests, pastures, and national, wild and geological parks).

Parameter 2 /rule: considering the purposes and consequences (outcomes)

What is meant by considering the outcomes: noting what the action refers to after it has occurred, and the possible consequences that results from it. Al-Shatib stated: "Looking at the consequences of actions is considered a one of sharia objectives, whether the actions are in agreement or disagreement with it and that is because the mujtahid does not judge an act of the responsible people in the light of sharia with committing it or keeping away from it except after looking at what the consequence of this deed has ..and it is a sweet aspect of the mujtahid which is hard on the resource, except (1) that is sweet in taste, has good result and is in accordance with the objectives of the Sharia " (1)

That is why Sharia paid attention to the means as it paid attention to the purposes, so it decided to close any loopholes using its controls - the means - that lead to current and future corruption or harm, and it also approved the pretexts to be used according to its controls - the means -(the forbidden) that lead to bringing the sharia -compliant interest.

And since the statutory laws in the Kingdom of Saudi Arabia are derived from the rules and purposes of Islamic Sharia, then every provision enacted or approved by the state is controlled and governed by the rules and purposes of Sharia, and among these provisions and enacted laws are those that addressed keenly the development and protection of forests.

In view of taking the outcomes and consequences in consideration, the Saudi lawmakers and legislators passed some laws for the development of vegetation cover and launched anti-desertification programs as well as including in the executive code (regulation) special controls for rangelands in Article VII - paragraph (1-7): among the most outstanding of them are: (The following centre undertakes: a- Preparing and implementing a national plan for the management of pastures. b- allocating a pastoral reserve for the purpose of rehabilitation and sustainable management thereof, and undertakes to fence it off or set boundary or indicative signs and any other means to protect it. c- Preparing and executing an action plan for the rehabilitation of the degraded pastoral reserve. e- Developing a plan to organize grazing based on climatic data, pasture capacity, and others. The plan specifies the sites where grazing is permitted, the appropriate grazing period, the type and number of permitted grazing animals, among other requirements and conditions).

The code (a set of regulations and laws) also included the prohibition of grazing in the land border areas specified in the code, and also in the sites of coastal trees, except in certain times and conditions, under the pretext of overuse, so as to provide grazing and the use of pasture areas within the vegetation cover.

And what is stated in the code of regulations and is considered an enforcement of (the rule of action and its outcomes) Article Eight - Paragraph (8-2) - (d) - placing educational and warning signs in different locations in the parks, to increase the level of awareness of the visitors of the parks, to preserve their components, and to outline Penalties and fines that will be imposed upon **violation** of the provisions of the Law and Regulations.

Article 16 of the Environmental code stipulates the following: 1- It is forbidden to involve in any activity or work within the limits of the vegetation cover without obtaining a permit or license according to effective regulations. 2- It is prohibited to involve in any activity or work on lands that fall within the urban area and which contains vegetation that is supervised by the concerned authority without obtaining a permit or license, in accordance with effective regulations).

The third parameter: rule of / harm removal or harm prevention

Of the Shari's provisions and rules are what are not specifically stipulated for it, but it is included in the general rules and evidences of the sharia. This is because Sharia is comprehensive and all-inclusive and it cannot state every single issue. There are general rules in which some specific people can use these general rulings and provisions to reach some rules about specific issues. Among these major general rules: "harm must be removed or lifted" or "There should be neither harming nor reciprocating harm in Islam." Thousands of issues, which include harm, fall under this general ruling. From this section, we find many rulings and statutory provisions enacted by the Saudi lawmakers related to the development of Forests and their protection are fallen under this general rule or provision in sharia, for example:

What is clearly stated in Article Nineteen of the Environment Law: (Anything that may harm the lands of the vegetation cover, or disturb the natural balance therein, and in particular the following: 1- Cutting down trees, shrubs, herbs or plants, or uprooting, moving or stripping them of their bark, leaves, or any part thereof, or transporting or misusing its soil either by trading in it or

profiting from it 2- Leaving waste inside them, burying them, burning them, or throwing them in places other than those designated for this purpose by the competent authority. 3-setting fire inside them in places other than those designated for that purpose as determined by the competent authority. 4- Destroying its fixed or movable facilities, or cutting or destroying the fences built by the competent authority inside them, or tampering with their boundaries or indicative signs. 5- Grazing in locations and periods forbidden by the competent authority. 6- Release in them any kind of animal fungal organisms or gasses that are alien and harmful to the environment.).

The environmental legal system –(rules and provisions) states what achieves the development and protection of forests while preserving the rights of private property, which fall under the meaning of the general rule: “There should be neither harming nor reciprocating harm.” When Article 29 comes out and states that (protected areas are determined and designated by Council of Ministers Decision based on the proposal of the competent authority on land that is not privately owned and on which no one has the right of jurisdiction, concession or reservation, and in the event that any of these exist, the map of the protected area must be amended, or an alternative must be assigned to it, unless the right holder waives his right; this is done according to the effective regulations . And the second article of (the enforcement of provisions of Article 43 in the executive regulations) for the development of vegetation cover and combating desertification states: (The violator must remove the effects of the violation and pay full compensation estimated by the center within a period of 60 days from the date of notification thereof).

As stated in the provisions of Article Fifteen - Procedures for the Disposition of Seizures - of the executive regulations, stipulating: (destroying resources when needed: such as invasive and exotic species of plants), due to the harm caused by their presence on the forest in general, and consequently harm must be prevented or lifted.

Parameter 4 / rule : the validity of people of power’s actions hinges on their benefit

This rule is one of the most prominent rules of Sharia politics guaranteed by the Islamic Sharia with its regulatory procedures. Allah's Messenger (ﷺ) said, "Everyone of you is a guardian and is responsible for his charges. The ruler who has authority over people, is a guardian and is responsible for them, a man is a guardian of his family and is responsible for them; a woman is a guardian of her husband's house and children and is responsible for them; a slave ('Abu) is a guardian of his master's property and is responsible for it; so all of you are guardians and are responsible for your charges."(1)

The text of the hadith shows that the Islamic Sharia made the Immams (rulers who have authority over people) responsible for their people, and empowered them to dispose of the affairs of their countries in accordance with what is allowed or dictated by the Sharia, and in a way that achieves for them interests and wards off corruptions or evils determined by the Sharia. Proven correct rulings, as well as the imposition of punishments and punishments, that achieve the intended legitimate interest, and other things that justify the imam to dispose of it in a way that achieves the intended interest in the Sharia. For this reason, the rulers have the right to restrict what is permissible as long as this achieves the sharia interests, and also they have the right to impose some laws that are not in conflict with sharia valid, proven rulings, as well as imposing

punishments and penalties that achieve the intended Sharia interest, and others that are in the imam (rulers or people of authority) power to do in a manner that realises the intended interest of the Sharia.

Thus, it is known that the actions and procedures taken by the imam (rulers or people of authority) regarding forests and their protection is dependent on the benefits brought by these actions, and among these benefits enacted by the Saudi lawmakers regarding forest development and protection that achieve the sustainability of environmental development and its components, and among the most outstanding decrees and provisions that are considered an application or enforcement of this rule are as follows:

Article 18 of the Environmental Law stipulates that: 1. Cultivation or afforestation is prohibited within the lands of the vegetation cover without obtaining a license).

The article 13 of the Environment Law stipulates in its second article that: (The competent authority may – under some restrictions according to enacted regulations - invest in national, wild and geological parks, and runs investment in them).

Article 15 of the Environmental Law states: (The agricultural and vegetation lands cannot be reclaimed and levelled unless you obtaining a license according to the effective code of rules and regulations).

What is mentioned above falls within the rule of the validity of people of power's actions hinges on their benefit, because these articles have interests that promote the development and protection of forests.

Also under this rule or law is what was approved by the Saudi lawmakers concerning assigning responsibilities and special missions to certain state bodies or setting up specialized centers, such as the National Center for Vegetation Cover Development and Combating Desertification, and the responsibilities and certain missions entrusted to it and the power it assumed. This has been well demonstrated in what Article 3 of the executive regulations for developing vegetation cover and combating desertification stipulates in a number of its articles and provisions in which the missions, work and responsibilities entrusted to the National Center on developing vegetation cover and combating desertification have been indicated: (In addition to the specific missions and responsibilities indicated in the regulation issued by Council of Ministers Resolution No. 417 dated 19/7/1441 AH, the center undertakes the following: 1- Compiling an inventory and classification of vegetation cover lands. 2- Inventory and classification of desertified lands. 3- Developing and protecting the lands of the vegetation cover and its living and non-living contents, and work to improve them quantitatively and qualitatively. 4- Working on rehabilitating desertified sites and lands of neglected vegetation. 5- Growing forests, making pastoral reserves, and establishing national, wild and geological parks, then investing them, managing them sustainably in compliance with the effective legal procedures. 6- Establishing and managing nurseries, nurseries, seed banks and seed propagation centres for wild and coastal plants. 10- Investing in vegetation lands and organizing investment in them. 11- enforcing the national commitments stipulated in the international and regional treaties and agreements related to vegetation cover and combating desertification, which the Kingdom is a signatory of them. 12- Developing the necessary

procedures and regulations to be taken into account when getting rid of and removing encroachments from the lands of the vegetation cover and the requirements for their rehabilitation). Added to the applications and enforcement of this rule, are the penalties and penal regulations agreed upon by the Saudi lawmaker for anyone who violates the forest development and protection law, as well as the violations against the environment by logging or overgrazing, as well as the transgression in the form of throwing waste in the forests, and other illegal behaviours.

As stated in Article Thirty Six of the Environmental Protection Law: It is prohibited to prevent or hinder inspector from performing his duties related to inspection and monitoring. The inspector must also show his position card when doing his assigned work.

It is noteworthy mentioning Article Thirty Eight stipulating that: (...anyone who flouts and defies any of the provisions of the Law and Regulations is punishable with one or more of the following penalties: a – Facing a fine not exceeding (20,000,000.20) twenty million riyals. b- suspending license or permit for a period not exceeding six months. c- Revoking license or permit.)

Article forty states: (Without prejudice to any heavier penalty set forth in another law , it is punishable with imprisonment for a period not exceeding ten years and a fine not more than thirty million (30,000,000.30) riyals, or with one of these two penalties , anyone who commits the following violations : A. Cutting down trees, shrubs, herbs or plants, or uprooting, moving or stripping them of their bark, leaves, or any part thereof, or transporting or misusing its soil either by trading in it or profiting from it.

Conclusion :

The research has yielded various useful results, here are the most prominent ones :

- Comprehensiveness of Islamic law for all aspects of life, including the development and protection of forests.
- The legal system of the Kingdom of Saudi Arabia is an extension and application of the rules of Islamic Sharia
- The Saudi lawmaker was keen to take into account the rules of Islamic law concerning forest development and protection.
- The Kingdom of Saudi Arabia's keenness to organize and regulate the development and protection of forests.
- The Kingdom of Saudi Arabia's support for the development and protection of forests, as shown in a number of measures and actions, including: The incorporation of several projects into Vision 2030, including: The Saudi and Middle East Green initiative, the establishment of centers to supervise the management and investment of pasture lands, forests and national parks, and the preservation of plant genetic resources and vegetation outside protected areas in the Kingdom in all its environment, and combating desertification.

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