

Legislative protection of the environment and its role in achieving sustainable development

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Abstract: Since the Stockholm Conference of 1972, the world has witnessed a fundamental shift in recognizing the environmental risks resulting from industrial and technological development. This shift has generated environmental disputes that require specialized legal frameworks. Consequently, the international community adopted a system of agreements and legislation aimed at protecting the environment and reducing pollution, culminating in the United Nations General Assembly's Resolution No. 76/300 of 28 July 2022, which recognized the right to a clean and sustainable environment as a fundamental human right. As a result of these developments, states have become obligated to harmonize their domestic laws with international agreements that embody global commitments in this field.

In line with this trend, many countries have incorporated explicit constitutional provisions for environmental protection and enacted specialized legislation to ensure such protection. The Jordanian legislator has likewise adopted a set of general and specific environmental laws; however, it has left jurisdiction over environmental disputes to ordinary courts without establishing a specialized judiciary for this type of case.

This study aims to analyze the role of the legislative framework in environmental protection and to assess its adequacy in addressing environmental disputes, which are characterized by their complexity and the interconnection of national and international dimensions. It also discusses the need to strengthen law enforcement mechanisms and to consider establishing specialized environmental courts—referred to as “green courts”—based on advanced environmental laws and agreements, in order to achieve a balance between environmental protection and the requirements of sustainable development.

Keywords: Green legislation, environmental legislation, sustainable development, international agreements

INTRODUCTION

Recently, conflicts of a special nature known as environmental disputes have emerged, as a result of the danger arising from economic and technological development, and the violations committed by individuals against the environment through their exploitation of the environment in a manner that is not in accordance with the laws, resulting in pollution of the elements of the environment. The international community has been keen to create international legislation and conventions to reduce environmental pollution, both at the international level and at the domestic level, by obliging States to enact domestic legislation that protects the environment and guarantees the right of the individual to live in a clean environment.

Many countries have also been keen to include provisions in their constitutions to protect the environment, including the Egyptian constitution, which stipulates in articles (27), (32) and (46) provisions for the protection of the environment. As for the Jordanian Constitution, it does not explicitly

stipulate and protect freedoms and rights in Article (7) thereof, and this general text includes the protection of the citizen and his right to a clean environment free from any environmental damage or risks, and he has the right to resort to the judiciary to protect his right..

The Jordanian legislature has developed legislation to protect the environment and combat pollution, and these legislations include penalties that force individuals to respect them and act according to their content, through the ordinary judiciary, and despite Jordan's efforts to pay attention to the environment through the enactment of environmental legislation and joining international and national efforts in protecting the environment. However, there are environmental problems that have emerged as a result of the overlap and duplication of the work of these bodies, as well as the lack of proper application of environmental laws, and this is due to the lack of specialized environmental courts.

Importance of the research:

The international and national community has sought to find legislation to protect the environment, and to create a specialized environmental judiciary that works to punish individuals who violate environmental protection laws, and to compensate the affected individuals, despite the interest of the Jordanian legislature in protecting the environment through the enactment of legislation, but these legislations were not enough to reduce the damage caused to the environment as a result of its unfair exploitation, and that the settlement of environmental disputes by courts not specialized in environmental issues, created a kind of legal problems, so it was necessary From seeking to establish a court specialized in environmental issues, to unify judicial jurisprudence. The legislator also did in economic cases, where it established an economic chamber to adjudicate on a specific type of case according to its type and nature (Article 4/D of the Law on the Formation of Regular Courts No. (17) of 2001 and its latest amendments for the year 2025. This calls for adjustments to strengthen this position.

Therefore, this study came to analyze the role of the legislative framework in protecting the environment, and to show the extent of its adequacy to address environmental disputes, in addition to strengthening law enforcement mechanisms through the establishment of environmental courts, green courts, based on environmental laws and conventions in order to protect the environment.

Research Problem:

The problem of this research is to assess the adequacy of the international and national frameworks in protecting the environment and addressing environmental disputes, in light of the increasing violations resulting from economic and technological activities, and the consequent pollution and damage to environmental elements. The main problem is the absence of a specialized environmental judiciary in Jordan, which leads to the dispersion of judicial jurisprudence, weak enforcement of environmental laws, and the dual roles between the regulatory and executive authorities, which limits the effectiveness of the legal protection of the environment and affects the path of sustainable development.

Based on the research problem, the hypotheses of the study can be formulated as follows:

The first hypothesis :

International environmental conventions contribute to the development of a global legal framework for environmental protection, but their effectiveness varies depending on the commitment of states and international monitoring mechanisms.

The second hypothesis:

Jordan's national environmental legislation , despite its evolving, is still insufficient to ensure effective protection of the environment due to the absence of a specialized judiciary and the dispersion of legal references.

The third hypothesis :

The establishment of specialized environmental courts strengthens the application of environmental legislation, standardizes jurisprudence, and strengthens law enforcement mechanisms to curb environmental violations.

Research Questions:

To what extent do international conventions achieve effective protection of the environment?

- What are the provisions included in the national laws for environmental protection?

Objectives:

Identify international conventions and courts forenvironmental protection.

Clarifying the laws and courts that are specialized inprotecting the environment and indicating their adequacy.

Analyze international and national legal systems that have sought to find specialized environmental courts in their judicial systems.

Research Methodology:

This research adopts an analytical and descriptive approach based on the study of legal texts related to the subject of the research, while supporting the analysis with the judicial method by reviewing the most important practical applications of the Jordanian Court of Cassation, and the research employs the comparative approach by comparing Jordanian legislation with some Arab and foreign legislations, with the aim of identifying the best legal practices and extracting reform visions that support the treatment of the problems raised.

Research Plan:

This research was divided into two topics, in the first topic we dealt with the position of international legislation on environmental protection, and in the second topic, the position of national legislation on environmental protection.

The first topic

International Legislation onEnvironmental Protection

International law has been concerned with protecting the environment from pollution damages at the international level, and has addressed the international community, including countries and international organizations, to work to protect the environment from pollution damages. International environmental law is a relatively new law, and international organizations, especially the United Nations, have played an important and effective role in the development of this law through international conferences and conventions, and have called on countries to develop domestic legislation to protect the environment. Therefore, the concept of international environmental law and its principles and international organizations in the protection of the environment will be discussed.

The first requirement

The concept of environmental law and the principles on which it is based

International environmental law is a branch of public law that is concerned with ending pollution and depletion of natural resources within the framework of sustainable development, as it protects biodiversity, climate and the ozone layer from toxic and hazardous substances, addresses desertification and preserves marine resources, air, soil and water resources from any damages (International environmental law, multilateral environmental agreements, 2017, p: 11), and before addressing conventions related to environmental protection, it is necessary to clarify the definition of the environment.

Section One

Definition of the environment

Definition of the environment is language: "Environment: It is the medium or spatial sphere in which man lives, including its material and social components, and the natural or artificial manifestations that surround it " (Al-Mu'jam Al-Waseet, 2004, p. 72).

Definition of the environment in the law: The various international or national legislations did not set a specific definition of the environment, and only mentioned and clarified the elements of the environment, which are the natural elements that make up the natural environment and in which man has no involvement, namely water, air and soil. However, it has defined the environment, and among the legislations that defined the environment was the French legislator in the law of July 93, 1919 on the protection of nature, where he made three elements for it, namely:

- " A. Nature, which includes animals, plants and environmental balance.
- b. Natural resources, including water, air, land and mines.
- C. Natural places and tourist sites. "

First: At the international level: At the 1968 UNESCO Conference in Paris, the environment was defined as: "everything that surrounds man, directly or indirectly, including all activities and conferences that affect man, such as the forces of nature", and at the First Conference on the Environment held in Stockholm in 1972, the environment was described as "the set of environmental, social and cultural systems in which man and other beings live, from which they derive their growth and perform their activity" (Abdel Samad, (2016, pp. 26-27)

At the Human Environment Conference in Stockholm in 1972, the environment was defined as: "a set of natural, social, and cultural systems in which man and other beings live, from which they derive their existence and perform their activities" (Al-Sheikhly, 2009, p. 28).

Second: Definition of the environment in jurisprudence: Part of the jurisprudence went to define "international environmental law" as "the set of legal rules dedicated to protecting the environment and maintaining its ecological balance based on international consensus" (Amar, 2024, p. 43).

Section Two

Principles underpinning international environmental law

International environmental law is based on several basic principles that constitute the general provisions that must be taken into account to achieve sustainable development to preserve the environment, which are:

The principle of participation, which means the participation of all in decision-making, is based on three basic principles, namely the right to information, the right to participate in the decision-making process, and the right to justice, and this is what was referred to in the Rio Declaration in Principle (10), and the International Union Conference on Town Management held in Sofia in 1996, explaining the need to involve individuals in the decision-making process (Al-Dalali, 2017, pp. 67-69).

The principle of prevention (the preventive principle) and some define it as "the abandonment of actions by states that may cause damage to the environment" (Al-Jundi, 2004, p. 103), the purpose of this principle is to prevent the occurrence of damages instead of curing them after they have occurred. By taking preventive measures when there are reasons or reasons to believe that an activity may cause serious damage that cannot be easily disposed of without affecting the environment and health such as radiation damage (Al-Jundi, 2004, p. 106)

The principle of sustainable development, which means that there must be a balance between environmental protection and economic development, by integrating economic development with the environment with the aim of providing the greatest benefit to the individual (Eyu Ghim Siang, I bid, p: 11), and this principle was first recognized in the Stockholm Declaration of 1972, and defined by the Jordanian legislator in Article (2) of the Environmental Protection Law of 2017 as "development that achieves a balance between environmental safety and economic development." and social development and ensures the use of natural resources while preserving them to achieve a decent life for future generations."

The principle of responsibility, which is that the person responsible bears full responsibility for the harmful activity emitted by him, and is responsible for compensation alone, so that the person who causes the pollution bears the effects of his activity in a way that is consistent with sustainable development, which is considered the only model accepted in the majority of countries (Hassouna, 2013, p. 33), and some call it the polluter pays principle (Abdul Khader, 2023, p. 8).

This principle appeared in the major oil spill disaster in 1967 and caused an environmental disaster, which led to the attention of the international community in finding legal means and tools to govern a similar incident on the basis of prevention.

The precautionary principle, and with reference to the jurisprudential and legal opinions and the texts that agree on the precautionary principle, there is no general agreement on the concept of this principle, but the conditions for its application have been mentioned, which are (the absence of certain scientific proof, the possible dangers, and the adaptation of the potential harm), and that the damage on the basis of which the precautionary principle is applied is different from the damage on the basis of which the other principles are applied. Article 3/3 of the Convention on Climate Change (Ayadat, 2024, p. 205).

The aforementioned principles are also based on national and international legislation, such as the principle of prevention, the principle of liability and the principle of prevention of harm, which helps in combating environmental crimes at the international and national levels.

The basis for finding these principles is the existence of environmental disputes that are difficult to define in view of the novelty of interest in this subject, and environmental disputes can be defined as any aggression on natural space caused by institutions that practice economic activities, as it is defined as a large-scale, multi-domain dispute that may be determined by the territory of one country, such as an environmental dispute of a civil, administrative, or criminal nature, and its scope may exceed the boundaries of the territory of one country, such as transboundary environmental disputes. The Patriotism" (Odeh, 2023, p. 11)

The second requirement

The Role of International Environmental Law and its Principles and International Organizations in the Protection of the Environment

The Environmental Law aims to protect the environmental environment in which human beings live, from any activities that may lead to a natural imbalance that threatens or leads to its elimination (Kamel, 1993, p. 43).

In order to achieve this goal, the international community has developed international legislation and convened international conferences for the protection of the environment. Therefore, Article 33 of the Charter of the United Nations, which speaks of non-judicial mechanisms in negotiation, consultation, good offices, mediation, investigation and conciliation, in addition to Article 21 of the World Charter of Nature, stipulates that "States, within the limits of their means, public authorities, international organizations, individuals and associations shall be obliged to:

Cooperation among themselves for the conservation of nature, through individual or group activities, especially through the exchange of information and consultations.

Determine the specifications and methods of production, especially for materials, and methods of manufacture that expose the environment to pollution, and evaluate measurement methods.

Develop international legal rules for application in order to preserve nature and protect the environment

Ensure that the activities under the control of the government or the judiciary do not conflict with the environmental protection rules of other countries, nor with the environmental protection rules in areas that are not under the sovereignty of other countries.

Action for the protection and conservation of nature in areas not under the sovereignty of any State" (la resolution 37/7 de l Assemblée Generale du 28 October). 1982)

In this regard, we will address international conventions , conferences and international organizations in their protection of the environment.

Section One

International conventions in environmental protection .

International conventions are one of the most important sources of international environmental law , as they represent the will of the international community to take measures to protect the environment from any harmful activities thereof, and to abide by these measures, and in case of violation or failure to carry out the obligations imposed by these conventions, it entails international responsibility, and this is what Article (26) of the Vienna Convention confirms that "every treaty in force shall be binding on its parties and they shall implement it in good faith."

International conventions play an important role in protecting the environment and preventing pollution on an international scale by reducing the problem of pollution, controlling the illegal actions of States, and determining international liability arising from the breach or breach of these conventions, and thus contribute to the creation of international legal rules related to the protection of the environment (Particaw W. Birine and Alan). Boyle , 1992, P12)

There are many international conventions that directly provide for the protection of the environment in times of peace and armed conflict, and some of them deal with the issue of

environmental protection indirectly.

First: International conventions that include provisions to protect the interests of the international community in common areas, such as international space and the high seas, such as the Outer Space Convention of 1966 concerning the activity of States in accessing outer space, the International Agreement on the World Natural and Cultural Heritage of 1972, and the United Nations Convention on the Law of the Sea of 1982.

International conventions that deal with the responsibility of States for environmental damages and compensation for those affected, such as the International Convention on Civil Liability for Damage to Oil Pollution of 1969, the International Convention on the Establishment of an International Fund for Compensation for Damage Caused by Oil Pollution of 1971, the Brussels Convention on Civil Liability in the Field of Maritime Carriage of Nuclear Materials in 1971, the Brussels Convention on Civil Liability for Losses Caused by Pollution in 1969, and the Basel Convention on the Control of the Transport of Hazardous Wastes and its cross-border disposal in 1989, and the protocols of the International Convention on Civil Liability for Damage Caused by Oil Pollution, London in 1976, as well as the International Convention on the Prohibition of the Use of Techniques of Environmental Change for Military or Any Hostile Purposes in 1976, and the Geneva Convention of 1949, which is the essence of international humanitarian law, although there is no direct provision for the protection of the environment, we find that there are indirect legal texts for the protection of the environment by addressing it to protect the environment, hospitals, medical units, and destruction of funds and property.

Third: International conventions that protect the seas, marine life and river waters from pollution, such as the Law of the Sea Convention of 1982, the Convention for the Prevention of Pollution of Ships MARPOL of 1976, the Convention for the Protection of Whale Fish, Washington, 1946, and the London Convention for the Prevention of Marine Pollution through the Dumping of Wastes and Other Substances of 1972. The 1992 Helsinki International Convention on the Protection and Use of Transboundary Waters and Lakes, the Sophia 1994 Convention on Cooperation for the Protection and Permanent Use of the Danube River and other relevant international conventions.

Fourth: International conventions aimed at protecting the air from pollution, such as the Convention against Transboundary Air Pollution concluded in Geneva in 1979, the International Convention on the Protection of the Ozone Layer in Vienna in 1985, and the International Convention on Climate Change in Rio de Janeiro in 1992.

Fifth: International conventions for the protection of flora, fauna and nature, such as the International Convention on Trade in Endangered Species of Wild Flora and Fauna in 1973, the International Convention on the Commitment of States to the Genetic Resources of Plants in 1983, the World Compact on Nature in 1982, and the International Convention for the Protection of the Antarctic in 1959. The International Convention on Biological Diversity in Rio de Janeiro 1992 related to the protection of threatened soils, landscapes and ecosystems

Sixth: International conventions aimed at protecting the environment from chemicals and wastes, such as the International Convention on the Necessary Information and Consent Methods in the Case of Hazardous Chemicals Subject to International Trade in 1998, the International Convention on the Control of Transboundary Movements and Their Destruction in 1989, the Vienna Convention on Nuclear Safety in 1994, the Barcelona Convention for the Protection of the Mediterranean Sea Basin from Pollution in 1976 under the auspices of the United Nations for the Protection of the Environment, and the Kuwait Regional Agreement for Gulf Cooperation in the Protection of the marine environment from pollution in 1978.

By examining the historical evolution of environmental legal frameworks and their compatibility with the principles of sustainable development, it is clear that there are global efforts to mitigate environmental degradation and promote a sustainable future. By reviewing the methodology of international conventions and legal principles, it reveals the complex interplay between environmental regulations and the broader goal of sustainable development. A comparative analysis illustrates the similarities and differences in environmental laws across different legal systems (Sagar, R., & Chandrappa, U. (2023) p.11).

Section Two

The Role of International Organizations and Conferences in Protecting the Environment

International organizations, especially the United Nations, play a prominent role in the development of the rules of international humanitarian law for the protection of the environment, as international organizations are the ones that pave the way for the emergence of international conventions, through preparatory work, and the holding of international conferences to discuss the topics that are the subject of the conclusion of these conventions, which constitutes a source of non-binding decisions of the rules of international law for the protection of the environment (Saad, 1994, p. 112). Among its resolutions are resolution No. 37/7 issued by the United Nations General Assembly on 28/10/1982, which resulted in the World Compact for Nature. Resolution 2997 also states that "the United Nations is convinced of the need for immediate and effective implementation by governments and the international community in order to establish specific standards for the protection of the environment for present and future generations" (Ahmed, 2005, p. 130). Not only the United Nations, but organizations within the United Nations system such as food and agriculture have played an important role in the field of environmental protection, as they have developed standards for the protection of water, soil and food from pollution by pesticide residues (Afkerin, 2006, p. 425). The European Economic Commission (EEC), a subsidiary of the Economic Council, has been concerned with some environmental problems since 1956 when its Inland Transport Committee was exposed to the issue of water pollution, and decided in 1969 that it would be "... Cooperation between the governments of the region in order to address environmental problems is one of the main objectives of the committee's program, as several committees have been established to deal with water problems, pollution and the use of water resources (Afkerin, 2006, p. 433).

The Security Council plays an important role in preserving the environment by issuing binding resolutions, based on a complaint submitted by one country against another state's damage to the environment, and the Convention on the Prohibition of the Use of Environmental Alteration Technologies for Military Purposes or for Any Other Hostile Purposes (this Convention was concluded in 1977, abbreviated as the ENMOD Convention). The Security Council shall be given the legal right to issue such resolutions against States violating this embargo.

Some jurisprudence is of the view that the Security Council may consider environmental damage to be aggression based on two legal formulations: first, if the Security Council determines that environmental damage is a form of aggression and calls for a military response in accordance with Articles 39 and 43 of the Charter of the United Nations, or if the Council resorts to holding the violating party internationally responsible and demanding compensation for the damage it causes. The second version is in accordance with Article 6/a of the Nuremberg Charter, which considers such acts to be preparation and planning to start a war of aggression and thus a crime against peace. Because they exploited the Polish forests badly, and that was when they cut down trees, while they had to preserve that timber wealth.

Other governmental and international organizations have also taken an interest in the

environment, such as the Organization for Economic Co-operation and Development (OECD), where the Council of the European Economic Cooperation Organization (EEC) decided in 1970 to "establish the Environment Committee concerned with environmental problems, protect them and provide solutions to them", where a committee was established in 1975 to study the administrative, legal and institutional aspects of cross-border pollution in order to develop principles and guidelines, and it prepared a report in 1980 that includes the exchange of common information, consultation on the problems of cross-border pollution and the development of Procedures for Dispute Resolution (Al-Awadhi, 1985, p. 45)

As for international conferences , several conferences have been held for environmental protection , the most important of which are:

Stockholm Conference:

The United Nations Conference on Human Environment, held in Stockholm in 1972, was the first global conference to attach great importance to the environment. Participants adopted a set of principles for the sound management of the environment, including the Stockholm Declaration and the Plan of Action on the Human Environment, one of the most important outcomes of the Stockholm Conference was the establishment of the United Nations Environment Programme (UNEP). The Stockholm Declaration, which contained 26 principles, placed environmental issues at the forefront of international concerns and marked the beginning of a dialogue between industrialized and developing countries on the relationship between economic growth, air pollution, water, oceans and the well-being of people around the world (Tarraf, 1998, pp. 76-78). A plan of action was also developed that included three main categories of action:

Global Environmental Assessment Programme (Monitoring Plan)

Environmental Management Activities

International measures to support evaluation and management activities carried out at the national and international levels. These categories were also divided into 109 recommendations.

Nairobi Conference:

Ten years after the Stockholm Conference, countries held a conference in the capital of Kenya Nairobi in 1982 under the auspices of the United Nations, and the affairs related to the environment, development and the steady rise of the population of the year, especially in the third world countries, were reviewed, and it was agreed to adopt the decisions of the Stockholm Conference, and this conference was considered a continuation of the Stockholm Conference, and on the development of an implementation mechanism called the " Nairobi Declaration " . , which included helping developing countries materially, technically and scientifically, addressing desertification and drought, encouraging agriculture, combating poverty and improving the conditions of the environment, but the provisions of this declaration remained unimplemented due to the international conflict, the division of the world, and the paralysis of the United Nations (Abdul Karim, p. 238).

The Earth Summit, Environment and Development, Rio de Janeiro, 1992 .

Under the auspices of the United Nations, the Earth Summit, Environment and Development was held in Rio de Janeiro in 1992 , in the presence of 185 countries, in addition to international, regional and local organizations concerned with environmental affairs , in order to research the protection of the atmosphere and the ozone layer, combating deforestation, preserving biodiversity, combating desertification and drought, environmentally safe management of hazardous wastes, and protecting the oceans, seas and rivers from pollution.

The conference resulted in the signing of two agreements, namely:

Convention on Save the Earth and Animal Species

Convention to Combat Worldwide Temperature Rise from Greenhouse Emissions

There are many conferences that have been held after this conference, such as the Conference on Population and Development in Cairo, the Conference on Social Development in Denmark (Copenhagen) and the 2002 Goha Nisberg Conference in South Africa

Second Topic

The Role of National Legislation in Protecting the Environment

The Jordanian Constitution does not have an explicit provision on the protection of the environment, but it stipulates and protects freedoms and rights, and by extrapolating the texts of the Jordanian Constitution of 1952 and its amendments (Emar, O., & Issa, H. (2021) p. 1855-1856), and through the interpretation of some articles of the Constitution, it is noted that they indirectly establish the protection of the environment, through the state's obligation to protect public health, natural resources, and national resources. and duties, even if they differ in race, language or religion."

This means that equality before the law to enjoy a healthy and healthy environment is one of the most important rights that all Jordanians should have, as stipulated in Article 120, "Regulations for the implementation of laws shall be issued by the Council of Ministers."

Constitutional law has a pivotal role in protecting the environment, with a focus on the obligations of governments and the legal frameworks necessary for sustainable development, as in various legal systems, environmental rights and responsibilities enshrine these legal frameworks, which are essential tools to promote environmental sustainability (Satria, R. 2025.p40).

At the level of national legislation, although the volume of environmental legislation has increased significantly in recent years, the shortcomings in its implementation and enforcement are still insufficient to address environmental issues, and the international community still lacks sufficient knowledge of the possibility of improving legal regulation to enhance environmental security by addressing global environmental risks through deterrent legislation (Kipāne, A., & Vilks, A. (2022).p177).

The first requirement

The Concept of the Environment in Jordanian Legislation

National legislation related to environmental protection includes many concepts that define the content and scope of protection, due to the scientific and technical nature of the principles and provisions of environmental legislation (Al-Helou, p. 32).

Section One

At the national level

The Jordanian legislator defined the environment and defined its elements and explained the content of its protection in the Environmental Protection Law in Article (2) as "the medium that includes living and non-living organisms, the materials it contains, the surrounding air, water and soil, the interactions of any of them, and the facilities or activities established by human beings", and that its elements are "living and non-living elements in the environment such as water, air, soil, species and genetic origins" and the content of their protection is "the preservation and development of the elements of the environment and its development and the prevention of their degradation or pollution"

He defined sustainable development as "development that achieves a balance between environmental integrity, economic development and sustainable social development and ensures the use of natural resources while preserving them to achieve a decent life for future generations."

The Egyptian legislator defined it by Law No. (4) of 1994 as "the biosphere that includes living organisms and the materials it contains, the air, water and soil that surrounds it, and the facilities that man establishes", where he has set up a natural and an artificial environment for it.

It is clear that these legislations did not define a clear and precise definition of the environment, but rather focused on the need to protect its elements.

Jordan's legal system seeks to protect the elements of the environment through Blending Penal Deterrence, Administrative Measures and Reform Obligations(Prosthetic)• taking Principle (Prevention is less expensive than cure) It promotes the alignment of environmental policies with sustainable development goals. The Environmental Protection Law No. (6) of 2017 and its subsidiary regulations are based on Its effectiveness when the state pairs sanctions and incentives (supporting the transition to clean technologies, financing impact remediation through specialized funds), and transparency of environmental compliance data for major projects. This is consistent with the directions of the Paris Agreement.[Paris Agreement Arabic](#))

It is clear from this that the place of criminal or civil protection of the environment is to prevent the pollution and development of its elements and components, and pollution means "the act that represents the criminal behavior of the offender on the environment or one of its elements" (Al-Minawi, 2008, p. 37). or imperceptible or leads to the limitation of the use of these elements, or reduces their economic, aesthetic or social value, or leads to their partial or total elimination, or affects the practice of the normal life of living organisms, and everything that disturbs their natural balance."

The legislature has also not provided for a special system for compensation for environmental damages, it has not been included in the civil law, and the environmental legislation does not include the modern principles of compensation for environmental damages contained in the international conventions signed and ratified by Jordan. The accumulation of these deficiencies has affected the effectiveness of environmental law and its implementation mechanism (Emar, O., & Issa, H. (2021)p1853-1854).

Section Two

The Concept of the Environment in Egyptian Law

Egyptian law defines it in Article (1, paragraph 7) of the Environmental Protection Law as "any change in its properties that may directly or indirectly harm living organisms or facilities or affect the exercise of human normal life".

It is clear from this that the Egyptian legislator limited pollution to the damages that may be caused to humans or living organisms, unlike the Jordanian legislator, which expanded the concept of pollution to everything that may affect any element of the environment, because environmental damage does not only affect living organisms or affect the practice of human normal life as stated in the Egyptian legislation, but this damage may affect any of the components and elements of the biosphere, as the Egyptian legislator established the crime of pollution as soon as it is proven This is contrary to the nature of environmental crimes that take place as soon as the offending act is committed, i.e., the existence of the physical act of pollution without waiting for the criminal result to occur, because environmental crimes are classified as crimes of danger rather than harm (Al-Makkawi, p. 71), because environmental pollution occurs as soon as it infects any of its elements (water, air, soil, or living organisms), including humans, or He was influenced by human activities and his establishment

(Minawi, p. 37).

Accordingly, it can be said that national legislation has defined the elements of the crime of environmental pollution, which are (Hashish, 2008, 156):

The occurrence of a change in the environment, whether it is a quantitative change such as a change in the quantity of some materials in a certain field, a qualitative change such as a change in the quality of the elements of the environment, or a spatial change in the place of some substances in the elements of nature or temporal.

This change is caused by a direct or indirect human action

Harming the environment, whether the damage is immediate or likely to occur, it is not possible to wait for the damage to occur until the act is criminalized, because the act in environmental crimes is a criminal once it is done.

The availability of the three elements mentioned above would determine the extent to which the legal rules for environmental protection are applied.

A review of Arab laws reveals several shortcomings in the existing systems in Jordan, Palestine and Lebanon, most notably the weak linkages between legal instruments such as environmental impact assessment and auditing, and the inadequacy of monitoring mechanisms and the allocation of the necessary resources to them. These weak points are likely to contribute to low efficiency and effectiveness of enforcement, the lack of a comprehensive approach to environmental protection, and insufficient funding for environmental mitigation measures and their monitoring during the various stages of development . L. (2016.p77))

The second requirement

General Provisions for the Protection of the Environment in Jordan

The Jordanian legislator paid attention to the protection of the environment, so he developed general legislation such as the Penal Law, and laws related to the environment such as the Environmental Protection Law No. 6 of 2017, and dealt with other laws related to the environment to provide for its protection. Such as the Agriculture Law No. 13 of 2015, the Water Authority Law, the Traffic Law, the Aqaba Special Economic Zone Law, the Law on the Organization of Cities, Villages and Buildings No. 79 of 1966 and its amendments, and the Public Health Law No. 47 of 2008 and its amendments, the Municipalities Law and its Formation. Municipal courts, as well as the Commercial and Corporate Law and the Civil Code, deal with environmental damages.

These legislations will be of no use unless there is a judiciary that is responsible for the implementation of the law, the imposition of the appropriate punishment against the violator, and the compensation of the affected individuals. Therefore, we find that the Jordanian legislature has entrusted the adjudication of environmental disputes and the imposition of the appropriate punishment to the ordinary judiciary, without allocating an independent and specialized judiciary to environmental issues.

Section One

Special Provisions in the Jordanian Environmental Protection Law

We find that the Jordanian legislator did not follow the same approach as the Egyptian legislator in setting special provisions that deal with each element of the environment separately, but only developed general provisions, referring to the necessity of issuing regulations related to the provisions of the Environmental Protection Law, the Hazardous Materials and Waste Management Law, the

Natural Reserves and National Parks Law, the Solid Waste Management System, and the Soil Protection System (Younis, 2008, p. 93).). However, it can be said that the legislator protected the elements and components of the environment through the Environmental Protection Law and other related laws, so that they collectively constitute the environmental legislation in Jordanian law.

While Jordanian and Egyptian legislation agree on the importance of the provisions on hazardous materials and wastes, the Egyptian Environmental Law requires the necessity of obtaining the necessary licenses for the handling of hazardous materials and wastes and the establishment of a table showing these materials and wastes, the most important of which is the prohibition of the import of hazardous wastes (Murad, 1998, 135-150), and these provisions are the same as those emphasized by the Jordanian legislator in Article (6) of the Environmental Protection Law. The Environmental Protection Law has listed several harmful acts that must not be carried out. He assigned punitive provisions to it.

In France, the Environmental Law provides for controls and sanctions (L170–L174) that grant expanded powers for administrative inspection and the grading of sanctions, which is a reference standard for environmental governance ([\[eur-lex.europa.eu\]](http://eur-lex.europa.eu), [\[legifrance.gouv.fr\]](http://legifrance.gouv.fr))

As for the UAE legislation, it is oriented towards harsher penalties in cases of hazardous and nuclear waste, up to the death penalty, while the Jordanian legislation is characterized by a precise detail of the financial fines on establishments according to their obtaining licenses and approvals, and its uniqueness of a text that prohibits statute of limitations in environmental crimes, and there is no doubt that the death penalty constitutes a deterrent that can be adopted by the Jordanian legislator (Emirati Legislation, Federal Law No. 24 of 1999).

As far as countries are concerned, both Nigeria and Saudi Arabia have specific environmental legal frameworks, such as the Environmental Impact Assessment Act, the Harmful Waste Act, and the Climate Change Act, which aim to protect the environment and adapt to climate change. However, there is a need to strengthen many initiatives related to the Sustainable Development Goals, laws governing the protection and management of the environment, and a transparent legal and regulatory framework (Amuda, Y., & Parveen, R. (2025), p. 2542).

By reviewing the Jordanian Environmental Protection Law, we find that it is of a preventive nature, as the second article of it is defined as aimed at preventing its degradation or pollution, and this is also manifested through the following legal texts:

Article (7) of the Constitution stipulates that "the prohibition of the entry of any waste..... Article (8) also stipulates that "it prohibits the collection, transportation, dumping, sorting, processing, disposal of any waste, rubble, solid or liquid waste, or waste by any means other than the conditions, procedures and sites approved by the Ministry, and Article Eleven prohibits the disposal of any substances harmful to the safety of the environment." Article (4) stipulates that "in order to achieve the objectives of protecting the environment and improving its various elements in a sustainable manner, the Ministry of Environment, in cooperation and coordination with the relevant authorities, shall develop the general policy for the protection of the environment, and prepare the plans, programs and projects necessary to achieve sustainable development."

The concept of the preventive nature of the Jordanian Environmental Protection Law means that it is not only based on the principle of the necessity of environmental safety, but also on the protection of the environment from potential dangers, and this means that this preventive aspect of the Environmental Protection Law is the most important in its remedial aspect, which is mainly represented in the liability for environmental damage, whether civil liability or criminal liability (Amar, p. 101).

On the other hand, the law includes provisions that prohibit under penalty of criminal liability any activity that would negatively affect the environment, as it increased the penalty to range from misdemeanor to felony, for example, what is mentioned in Article (21/A/2) of the Jordanian Environmental Protection Law, as well as increased financial fines that may reach ten million dinars.

It can be said that the Jordanian legislator drafted a law to protect the environment, but he failed to develop an integrated law, as we have seen, he did not follow the example of the Egyptian legislator, or keep pace with the international agreements signed by the Jordanian government, so we find:

The Jordanian legislator in environmental law has not adopted the modern theories of environmental responsibility, nor the international conventions it has ratified, which are more than 155 treaties related to environmental affairs.

The Jordanian legislator has not taken into account the general principles of international environmental law adopted by international conventions, especially the principle of polluter paying, the principle of prevention, the theory of risk, and the principle of the participation of civil society in environmental management, environmental policy-making, and in the enforcement of these legislations.

The Jordanian legislator did not establish in the Environment Law incentive systems for the protection of the environment, the development and preservation of its resources, nor did it take into account the principle of reward and punishment in the form of customs exemptions, tax and others, such as adding a special tax on a good or service that pollutes the environment (Amar, p. 103).

The Jordanian legislator did not address compensation for damage in the Environmental Protection Law, but left it to the civil law, unlike the French legislator, where an amendment was introduced under the so-called "Biodiversity Law" in the French Civil Code for a year that allows the possibility of explicitly including damage to the environment in the Civil Code, with the aim of incorporating environmental liability and environmental damage into the Civil Code (Amar, p. 103).

With regard to civil liability for harmful acts, whether the act is a deliberate or unintentional breach, and whether the act is committed by a distinct or non-discriminatory person, the general provisions of the Jordanian Civil Code are resorted to.

There are obstacles and challenges to law enforcement, such as overlap and inconsistency in the provisions on fines and penalties in various Jordanian laws related to the environment. This presents an obstacle and difficulty for judges to determine the applicable law in each case, resulting in delays in sentencing (Al-Sharari, S. (2014)p17).

The Court of Cassation has established a prominent role in establishing the principles of compensation for environmental damages and filling the shortfall

Legislation in some civil aspects of the Environmental Protection Law One of the most prominent cases considered by the Jordanian courts and the Court of Cassation is the cases of pollution resulting from the cement factories of Lafarge Company in the areas of Fuheis and Rashadiya. The Court of Cassation has established in its jurisprudence important principles for compensation for environmental damage to the neighbors of the factories (the Jordanian Court of Cassation Principles of Civil Liability and Compensation for Environmental Damage).

The administrative judiciary in Jordan also has an important role, as its role is not limited to being a procedural tool, but it is a fundamental actor in environmental governance and plays a pivotal role in protecting the environment, as it performs a dual function: it is the protector of environmental safety and a supervisory body over administrative regulatory authorities (Awaisheh, S., Alhasan, T.,

Kurdi, A., & Awaisheh, S. (2023) p17-18)

As for the regulations that have been developed based on the Environmental Protection Law, they are as follows:

1- Climate Change Law No. 79 of 2019

The "Climate Change Law No. 79 of 2019" provides protection for the environment through the development of a legal and institutional framework to deal with climate change issues in Jordan, and this system enhances adaptation capabilities on the one hand and mitigates the effects of climate change on the other hand, and this is done by integrating environmental considerations into national plans and policies, and obliges the concerned authorities to prepare periodic reports on the emissions stipulated in the law and identify their sources, as well as develop monitoring programs and standards to reduce emissions. The Law contributes to the protection of natural resources, health, and the environment and the achievement of sustainable development, and is issued under Article 30 of the Environmental Protection Law No. 6 of 2017.

2- The Environmental Licensing and Classification Law and its appendices for the year 2020, which is issued pursuant to paragraph A of Article 5 of the Environmental Protection Law No. 6 of 2017.

This system contributes to the protection of the environment by subjecting projects to the Environmental Impact Assessment System before granting the legal license, and classifies projects according to their degree of danger to the environment, which allows the concerned authorities to impose appropriate environmental conditions to preserve the environment, and obliges investors to follow specific environmental standards during the implementation of their projects.

The Hazardous Materials and Waste Management Law No. 68 of 2020 and its amendments, this law plays a fundamental role in the protection of the environment in Jordan, as it has established a legal framework to regulate the handling of hazardous materials and wastes, starting from import, storage, transportation and treatment to their final disposal. This system is considered a legal tool in preventing environmental damage and achieving the requirements of environmental compliance according to international standards.

Section Two

Special Laws in the Protection of the Environment in Jordan

The Jordanian Penal Code No. 16 of 1960 and its amendments did not explicitly provide for the protection of the environment, but stipulated some texts that refer to the protection of certain elements of the environment, and if the assault is committed, it constitutes a punishable crime, as in Article 457, which criminalizes the act of throwing harmful substances into public waters, and Article 458, which criminalizes the act of polluting a spring or water from which others drink, and the Municipalities Law No. 41 of 2015 stipulates aspects aimed at protecting the environment. Within the powers of the municipalities as stipulated in Articles 5/18, 20 and 21.

With regard to the protection of the environment adopted by the Corporate Law, the liability of companies for environmental damages resulting from their commercial or industrial activities emerges, in the light of national environmental laws, based on the transformation of the concept of liability from a mere legal obligation to a proactive strategy to promote sustainability, and the legal nature of companies as an independent legal person, and the availability of civil or criminal liability. Whatever the damages are caused by negligence, default or non-compliance with the environmental standards adopted at the international and national levels, corporate environmental responsibility is defined as

" the commitment of companies to reduce carbon emissions, conserve natural resources and manage waste, and the need to disclose these efforts to ensure transparency", and to hold the parent company accountable for the damages of its subsidiaries, especially when there is a defect in financial or managerial independence, which leads to ensuring compensation. The need for mandatory disclosure of environmental activities in financial reports, linking to corporate performance standards, and to achieve greater compliance through regulatory bodies and environmental authorities in following up on the performance of companies, imposing appropriate penalties when violating environmental laws, and developing more effective mechanisms to ensure their compliance with environmental standards, in order to achieve a balance between economic development and environmental protection (Al-Ameri, 2020).

The Law on the Formation of Municipal Courts No. 35 of 2006 also refers to the competencies exercised by these courts in order to protect the environment, specifically the text of paragraph (k), which means that this law provides protection for the environment through the aspect of special deterrence by imposing appropriate punishment on the perpetrators of acts harmful to the environment.

As for the Health Law No. (47) of 2008 and its amendments. The law imposes on the Ministry of Health to monitor the occupational environment and the health of workers in factories and laboratories to ensure their safety, which limits industrial pollution, grants the Ministry the authority to monitor public and private water sources, crops and foodstuffs, and takes immediate measures to prevent the spread of diseases resulting from environmental pollution, and criminalizes the use or circulation of contaminated materials or places that may transmit diseases, and obliges the authorities responsible for sanitation to take The law authorizes the minister to take all urgent measures to eliminate epidemics, which contributes to the protection of the environment and public health in an integrated manner.

In addition to the above-mentioned Environment Law, there are other legislations that have protected various aspects of the right to the environment, such as the Temporary Agriculture Law No. (44) of 2002, the Jordan Valley Development Law No. (30) of 2001, the Water Authority Law No. (18) of 1988, the Law on the Prevention of Pests and Fees for the Collection of Waste within the Boundaries of Municipalities No. (1) of 1978. The Medicine and Pharmacy Law, 80/2001, the Law on the Regulation of Natural Resources Affairs No. (12) of 1968, and the Quarry Law No. (43) Atomic Energy and Radiation Protection Law No. 29 of 2001 of 1953.

Conclusion:

Legislative protection to protect the environmental balance and confront the damages caused by pollution of all kinds is highlighted by its effectiveness through the regulating legislation, respect for the international framework and the protection of gains in the field of environmental protection, which have been affected by many acts of human aggression against resources in search of development of various kinds. Application and the competent court. In addition, it identifies the best ways to resolve complex and special environmental disputes in light of the overlapping international relations.

This research came to identify the problems facing international and national environmental protection, and the research answered the research questions in terms of the nature of these problems and how to overcome them, in order to protect the environment in the legal framework, specifically in view of the problems that arose about the legislative protection to determine environmental responsibility at the national and international levels civil, penal and administrative, in view of the lack of research interest in these topics based on the special nature of environmental law. This research

reached the following results and recommendations:

Results:

Despite the multiplicity of international initiatives – conventions, treaties and conferences – the study showed that their practical application is still limited due to the reliance of many of them on flexible rules and weak control and compliance mechanisms, which reduces their impact on reducing environmental pollution.

Jordan's national legislation has been found to contain important provisions in protecting the environment, but they are scattered among multiple and different laws and are unable to address the complex nature of environmental problems, especially with the increasing and complex sources of pollution.

The study showed that legal systems – both internationally and nationally – have tended to deviate from traditional notions of liability, with the aim of addressing the difficulties of proof and the complexities of environmental damage, reflecting an objective need to develop liability towards more flexible and effective forms.

The study concluded that the novelty of environmental issues, with the absence of specialized courts, has led to uneven jurisprudence and instability of judicial rules, especially in liability claims arising from environmental pollution.

It is noted that the multiplicity of definitions of environmental pollution in international and national legislation is reflected in the different standard of error and the nature of the responsible activity, which affects the stability of the legal rules related to environmental accountability.

The research found that the absence of clear and direct rules for determining liability for environmental damage led to an imbalance in the relationship between legal protection and the strategic goal of maintaining environmental balance.

The analysis confirmed that most international environmental conventions were in general or soft law form, which limits their binding and weakens their ability to provide effective protection of the environment or form clear legal obligations for states.

Recommendations :

The research will provide recommendations for legislative reforms in order to develop the environmental legislative system at the international and national levels and its reflection on the mechanisms of implementing these legislations, represented by specialized environmental justice internationally and nationally, to achieve the protection of the transboundary environment from environmental violations, and to find integration in environmental protection in the face of increasing pollution between international and local.

The study recommends the need to integrate the scattered environmental legislation into a unified law that addresses the shortcomings of the current texts, and establishes a clear system of liability and penalties, in order to enhance the national capacity to confront pollution.

The study recommends that the Jordanian legislator include an explicit provision in the law on the formation of courts that includes the establishment of environmental chambers in the courts of first instance, and that they have jurisdiction to hear environmental cases of all kinds (civil, criminal, administrative).

With the proposal to draft a new law called the "Law on the Formation of Environmental Courts" to determine the specific and spatial jurisdiction of these courts, and to establish a specialized environmental public prosecution.

As follows: The proposed text for the establishment of an environmental chamber in each court at the beginning of the article:

Article 4/E – Notwithstanding what is stated in any other legislation, one or more environmental chambers shall be established in each court at the beginning of the day to hear and adjudicate the following cases:

a- ...)

The study recommends that the penalties imposed on environmental violations, given the seriousness and ongoing nature of environmental damage, be tightened in order to achieve public and private deterrence.

The study explicitly recommends that:

Liability for hazardous activities

Responsibility for doing things

Non-Tortious Liability

Special rules for proving causation in environmental cases. Due to the specificity of environmental damage and the difficulty of proving it.

The study recommends the establishment of specialized administrative chambers within the administrative judiciary to consider appeals related to licenses and regulatory decisions with an environmental impact.

The study recommends the establishment of a permanent technical cooperation mechanism between environmental authorities and the courts, to ensure the provision of scientific expertise to judges in environmental cases.

The study emphasizes the need to strengthen the role of environmental inspection and raise the efficiency of control over industrial projects to ensure compliance with environmental standards.

The study recommends that international conventions should stipulate that:

Mechanisms to facilitate litigation procedures in transboundary environmental crimes, recognition and international implementation of environmental provisions, exchange of environmental information between countries

The study recommends explicitly stipulating in legislation the right of individuals and approved environmental bodies to file environmental protection lawsuits, in line with the requirement of legal interest.

The study recommends that the competent authorities should commit to examining environmental impact studies according to advanced and accurate standards before granting licenses. To achieve sustainable development as stipulated in Article 2 of the Environmental Law.

The study recommends setting long-term goals for environmental protection and linking them to national development plans.

The study encourages the adoption of alternative means of resolving environmental disputes, especially those of a complex technical nature.

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