



مفهوم البيئة وعناصرها

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The environment, its concept and elements

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الملخص

لقد خلق الباربي - عز وجل - كل شيء بقدر، ووازن بين كافة المكونات التي من شأنها إدامة الحياة على سطح الأرض قال تعالى: " إِنَّا كُلَّ شَيْءٍ خَلَقْنَاهُ بِقَدَرٍ"، إلا أن الإنسان عمل على تغيير التوازن البيئي من خلال العمل على استنزاف الموارد وتلويث البيئة، لاسيما وأن مشكلة التلوث أصابت كل العناصر البيئية المحيطة بالإنسان من ماء وهواء وتربة وغذاء، وأصبحت مشكلة عالمية أدت إلى أن يعيش العالم اليوم أزمة بيئية ؛ ولذلك فقد دق ناقوس الخطر من أجل اتخاذ الخطوات الإيجابية الفعالة سواء على الصعيد الوطني أو الدولي.

وإن تحديد مفهوم البيئة يعتبر من أولى الصعوبات التي أحاطت بهذا المصطلح خصوصاً من الناحية الفقهية والقانونية نظراً لاختلاف الرؤى والأهداف والمنطلقات فنظرت البيولوجي تختلف عن نظرت الاقتصادي وهما يختلفان عن نظرت القانوني ، ويُعد الحفاظ على البيئة ضرورة من الضرورات المهمة في هذه الحياة المعاصرة التي كثرت فيها الملوثات، فالإنسان في سعيه إلى التقدم والرفي قد يحقق الرفاهية، إلا أن هذا التقدم من ناحية أخرى يحمل في طياته آثاراً سلبية ضارة على الإنسان والبيئة. **الكلمات الدالة:** البيئة ، التلوث ، التوازن البيئي، الأزمات البيئية ، العناصر البيئية.

Abstract

The Creator - the Almighty - created everything with a measure, and balanced all the components that would sustain life on the surface of the earth. God Almighty said: "Indeed, We created everything according to a measure." However, man worked to change the environmental balance by working to deplete resources and pollute the environment. Especially since the problem of pollution has affected all the environmental elements surrounding humans, including water, air, soil, and food, and has become a global problem that has led to the world experiencing an environmental crisis today; Therefore, the alarm was sounded in order to take effective positive steps, whether at the national or international levels.

Defining the concept of environment is considered one of the first difficulties surrounding this term, especially from a jurisprudential and legal perspective, given the difference in visions, goals, and starting

points. The biological view differs from the economic view, and they differ from the legal view. Preserving the environment is one of the important necessities in this contemporary life in which pollutants are abundant. Man, in his pursuit of progress and sophistication, may achieve well-being, but this progress, on the other hand, carries with it harmful negative effects on man and the environment.

Keywords: Environment, pollution, environmental balance, environmental crises, environmental elements.

Introduction:

Environmental pollution is one of the most dangerous forms of pollution in the modern era. It has become clear that pollution levels have risen alarmingly in recent years, reaching unacceptable levels both locally and globally. The danger of pollution lies in its harmful effects on citizens and public health, as it harms people and impacts various aspects of life (work, education, economics, social aspects, etc.). Humans are an integral part of the environment, interacting with it in all its positive and negative aspects. The industrial revolution and technological development have led to some destructive negative effects on the environment. Given that the environment is an integrated entity and that humans are its center, any harmful environmental effects on humans make it difficult for them to interact with the environment and cause harm to them. This impact may extend to those around them.

Significance of the Research:

The importance of the topic of the environment, its concept, and its components lies in the fact that protecting the environment from pollution is a constantly evolving issue, both locally and internationally. Administrative control authorities are the entity most closely involved in addressing this problem, using various means to achieve their various objectives of protecting the environment from pollution. The importance of ensuring a pollution-free environment is evident from two perspectives: on the one hand, environmental pollution constitutes an assault on the human right to a healthy life free from all forms of pollution; and on the other hand, environmental pollution can impact development in a country by weakening an important resource: the human being.

Research Problem:

The study of the concept of the environment, its components, its exposure to pollution, and the damage caused by environmental pollution currently constitutes a top priority for politicians, thinkers, scientists, and researchers in various fields of knowledge and science, regardless of their specializations and backgrounds. It has become increasingly clear that environmental protection directly entails ensuring human safety, which can only be achieved by living in a healthy, suitable, and pollution-free environment. The question arises as to the adequacy of the legislation regulating environmental protection from pollution in both Egypt and Libya.

Research Methodology:

The research topic will be addressed using a comparative analytical approach, examining legal texts in both Libya and Egypt, as well as jurisprudential trends and court rulings. We will highlight Libyan legislation, as well as Egyptian legislation, as it is among the most important legislations focused on environmental protection.

Research Plan:

First Requirement: The Nature of the Environment

Second Requirement: Elements of the Environment

First Requirement: The Nature of the Environment

Some people use the term "environment" to refer to the conditions surrounding humans in a particular place and time. The meaning of "environment" varies depending on the logic and content of the science that addresses it¹. We will discuss definitions of the environment in this section.

Section One: Defining the Environment

It was mentioned in Mukhtar Al-Sihah that the root of the word "environment" is "to settle" and "to settle" means to prepare it for him and enable him in it². The word "environment" is considered the noun of the verb "to settle" meaning to descend or reside. The words "environment," "place," "home," and "place" are also used as singular words. Environment expresses the state and condition, so it is said that "environment" is in a bad condition³.

Sheikh Taher Al-Zawi defines it as "He gave him a home," meaning he settled in it, and he took up residence in the place where he settled. "Al-Mabah" means "the place," and "Al-Bi'ah" with a kasra means "the state."⁴

It came in the Almighty's saying: {And those who had settled in the city and the faith before them}⁵, so the word "they settled in the city and the faith" means they settled in the city and were sincere in their faith.

Also in the Almighty's saying: {And remember when He made you successors after 'Aad and settled you in the land}¹ Here, "He settled you" means He settled you and settled you.

¹ -Dr. Islam Mohamed Abdel Samad: "International Protection of the Environment from Pollution," PhD thesis, Faculty of Law, Alexandria University, 2015, p. 10.

² -Muhammad Abu Bakr al-Razi: "Mukhtar al-Sihah", Lebanon Library, Beirut, 1995, p. 20

³ -See: "Lisan al-Arab", Dar al-Ma'arif, Cairo, Part One, 3rd ed., p. 328.

⁴ -Sheikh Taher Al-Zawi: "Mukhtar Al-Qamus", Arab House for Books, Tripoli - Libya, 1980 AD, p. 48.

⁵ -Surah Al-Hashr: Verse No. (9)

It also came in the Almighty's saying: {And thus We established Joseph in the land, to settle therein wherever he willed. We bestow Our mercy upon whom We will, and We do not allow to be lost the reward of the doers of good}², The intended meaning of this noble verse is that God Almighty prepared for Joseph - peace be upon him - in Egypt a home, environment, and environment. The verse also refers to the land, which God Almighty prepared for His creatures.

It was mentioned in the noble hadith: "Whoever lies about me intentionally, let him take his seat in Hellfire"³. That is, his status and position in Hell. It also refers to the environment surrounding and influencing the individual and the group, such as the natural, cultural, and social environment⁴.

The word environment may come to indicate the suitability, equality, equivalence and equivalence of things. It is said: "The people are equal in this matter", meaning they are equal and equal. It is said that the blood of so-and-so is equal to the blood of so-and-so, if he is equal to him. It is clear that the environment has four meanings⁵, united by one meaning represented by the good and suitable place that is in a balanced state, and it represents the finality of the desired meaning of the surrounding environment. In 1866 AD, the German scientist Ernst Haeckel coined the word "Ecology", which is a combination of the two Greek words "Oikes" meaning dwelling and the word "Logos" meaning science. It was later translated into environmental science⁶.

The environment is defined in the English language as "Environment". The environment in the English language means the natural conditions of water, air, and soil, as well as the social and biological conditions in which humans live and which affect the growth and development of life⁷.

In the French language, the French Larousse Dictionary defined the environment as: "The group of living and non-living elements that surround the individual and directly affect the fulfillment of his needs." Among the definitions of the environment approved by the International Council of the French Language in 1970 AD is: "All the physical, chemical, biological and social factors that have a direct or indirect

¹ -Surah Al-A'raf: Verse No. (74)

² -Surah Yusuf: Verse No. (56)

³ -An authentic hadith narrated by Al-Bukhari in his Sahih, Book of Knowledge, Hadith No. 104, and by Muslim in his Sahih, Book of Asceticism and Tenderness, Hadith No. 6235.

⁴ -Dr. Osama Abdel Aziz: "Towards a Criminal Policy for Environmental Protection," PhD thesis, Faculty of Law, Alexandria University, 2005, p. 24.

⁵ - See: "Lisan al-Arab" by Ibn Manzur, Vol. 1, previous reference, p. 37

⁶ - Dr. Anwar Jumaa Ali: "Civil Liability for Environmental Damage - A Comparative Study," PhD thesis in Law, Mansoura University, 2014, p. 24.

⁷ - The World Book Dictionary, 1988, World Book, Ink, U.S.A., p. 708. Quoted from Dr. Mahmoud Fakhr El-Din Othman: "Environmental Protection Means in Light of the Code of Civil Procedure - A Comparative Analytical and Applied Study," PhD thesis in Law, Cairo University, 2016, p. 5.

impact on living organisms and human activities”¹. The definition provided by environmental scientists and their supporters expresses their desire to protect everything that surrounds the human being in the environment in which he lives ².

The second branch: The technical concept of the environment:

The concept of the environment is one of the most difficult and complex issues, especially since many scholars and specialists have disagreed on a specific definition of the term environment³. The term environment is used in many different sciences and fields ⁴, and this term changes depending on the topic in which it is used, its purpose, the specialization of the researcher who addresses it, and their philosophy in presenting the topic.

The opinions of researchers and specialists have differed among themselves in setting a specific and understandable definition that everyone agrees upon for the term environment, and the definitions in this regard have multiplied⁵ In modern environmental science, it is defined as: “the physical environment in which man lives, including water, air, space, soil, living organisms, and the facilities he has established to prove his needs” ⁶.

The concept of the environment in the field of life sciences includes the relationship of man with living creatures, both animals and plants, that live in one place, in addition to the relationship of man with the

¹ -Dr. Islam Muhammad Abd al-Samad: "International Protection of the Environment from Pollution," op. cit., p. 12

² -Islamic law preceded contemporary sciences in explaining the meaning of environment, and clearly and distinctly indicated that it means the environment or surroundings provided with elements that make it suitable for life and survival, and the components that make a place or environment suitable for life and survival in it, those that God Almighty created with His greatness and power, and they are the natural resources and elements such as the sun, moon, air, water and soil, or those that God made happen at the hands of humans by virtue of their succession on earth and their development of it with buildings, facilities, social and economic systems and others, Dr. Nabila Abdel Halim Kamel: "Towards a Unified Law for Environmental Protection", Dar Al Nahda Al Arabiya, Cairo, 1993 AD, p. 15.

³ -Dr. Faraj Saleh Al-Harish: "Crimes of Environmental Pollution," Dar Al-Fikr Al-Arabi, Cairo, 2006, p. 30.

⁴ -It is worth noting that the term Environment was first used at the United Nations Conference on the Human Environment held in Stockholm, Sweden, in 1972, instead of the term Human Environment, which was then commonly used. See: Prof. Walid Ayed Awad: "Liability Arising from Environmental Pollution – A Comparative Study," Master's Thesis in Law, Middle East University, Jordan, 2012, p. 12.

⁵ -Dr. Ahmed Abdel Karim Salama: "Islamic Environmental Protection Law Compared to Positive Laws," Dar Al Nahda Al Arabiya, Cairo, 2007, p. 25.

⁶ -See: Our Professor Dr. Majed Al-Helou: "Environmental Protection Law," Dar Al-Jamia Al-Jadida, Alexandria, 2012, p. 48.

natural environment and the physical environment, which includes water resources, waste and its disposal, insects, soil, housing, and the atmosphere ¹.

Others believe that the term environment in its general concept means the environment or spatial area in which a person lives, is affected by it and is affected by it, with all the elements and data included in this spatial area, whether natural, such as rocks and what they contain of minerals, energy sources, soil, water resources, and climatic elements of heat, pressure, wind, rain, natural plants, and marine animals of terrestrial and aquatic origin, or human data in whose existence man has contributed, such as urbanization, transportation and transport routes, farms, factories, dams, and so on ².

The linguistic and technical definition of the environment has had a significant impact on most legislation including a legal definition of the environment, which we will explain.

The Third Branch: The Legal Concept of the Environment:

Definitions of the environment have varied and differed according to laws and jurisprudence. Some define the environment narrowly to include the natural components surrounding the biosphere, while many ³ believe that the definition of the environment should include human-created industrial facilities in addition to the natural components of the environment. Legislators, in their attempts to define the environment as a subject of legal protection, have taken two approaches: one approach adopts the narrow concept of the environment, and the other adopts the broad concept of the environment. There are legislations that use the term "environmental protection" without specifying its meaning and the elements it encompasses. Opinions differ regarding the environmental elements referred to in the law and protected by its integrated system as a new value for society ⁴.

Some jurisprudence has gone so far as to say that the environment is devoid of any real legal content, meaning that it cannot be a place of protection ⁵, on the basis that the environment differs from one perspective to another by adding a characteristic that distinguishes it, while the majority of jurisprudence has gone so far as to say that the environment is an idea.

¹ -A. Misbah Abdullah Abdul Qadir: "The Right to the Environment and Human Rights Legislation," Master's Thesis in Legal Studies, Institute of Arab Research and Studies, 2004, p. 9.

² -A. Walid Ayed Awad: "Civil Liability Arising from Pollution," previous reference, p. 15

³ -Dr. Muslat Qwayan Muhammad Al-Sharif: "Liability for Environmental Damage and the Extent of Its Insurability," PhD thesis in Law, Alexandria University, 2007, p. 14

⁴ -A. Abdul Salam Muhammad Khalaf Allah Al-Baabaa: "An Evaluative Study of the Institutional Framework for Environmental Protection in Libya," Master's Thesis in Environmental Sciences, Institute of Environmental Studies and Research, Ain Shams University, 2004, p. 22.

⁵ -Dr. Ahmed Mohamed Hashish: "The Legal Concept of the Environment in Light of the Principle of Islamization of Contemporary Law," Dar Al Fikr Al Jami'i, Alexandria, 2001, p. 69.

Although it is legally difficult and arduous, according to the concept that considers it the environment surrounding a person and affecting his general health, the laws have placed it under legal protection ¹. We will discuss the legislation that has attempted to define the environment below:

Libyan law:

The Libyan legislator defined the environment through the text of Article 1 of Law No. (15) of 2003 AD, which replaced the previous Environmental Law No. (7) of 1982 AD, where he defined it as: "The environment in which humans and all living organisms live, including air, water, soil, and food, whether in places of residence, work, activity, or other places"².

Egyptian Law:

The Egyptian legislator adopted, in Law No. (4) of 1994 and its amendments, a broad definition of the environment. Article 1 of the law states that: "The environment is the biosphere that includes living organisms and the materials they contain, the surrounding air, water, and soil, and the facilities constructed by humans." It is clear from the previous text that the Egyptian legislator has defined the environment as including the natural environment, which includes a group of natural elements, such as water, air, and soil, as well as the artificial environment constructed by humans. This is the broad definition of the environment ³.

Tunisian Law:

The Tunisian legislator defined the environment broadly in Article 2 of Law No. (91) of 1983, dated August 2, 1983 (the Tunisian Environmental Law), which defined the environment as: "the physical world, including land, air, sea, groundwater, surface water, valleys, open lakes, salt marshes, and the like, as well as natural spaces, landscapes, distinct sites, various species of animals and plants, and, in general, everything that encompasses the national territory." It is noteworthy that the Tunisian legislator, in his definition of the environment, considered it to be everything that concerns life, from nature to biological life to humans themselves, whether in relation to their lives or their heritage ⁴.

Iraqi Law:

The Iraqi legislator defined the environment in the fifth paragraph of Article Two of the Iraqi Environmental Protection Law No. (27) of 2009, which states: "The surroundings, with all their elements, in which organisms live, and the effects resulting from human economic, social, and cultural activities." It should be noted that this definition is identical in content to what was stated in Article One of the Iraqi

¹ -Dr. Anwar Ali Jumaa Al-Tawil: "Civil Liability Claim for Environmental Damage," previous reference, p. 27.

² -Legislation Code, General People's Congress (formerly), Issue No. 4, dated 8/16/2003, Year 3, p. 200.

³ -Dr. Abdullah Jad al-Rab: "Environmental Protection from Pollution in Administrative Law and Islamic Jurisprudence," Al-Wafa Library Publications, 1st ed., 2016, pp. 33-34.

⁴ -See: Al-Tayeb Al-Lomi: "Problems of Criminal Liability and Penalties in the Field of Environmental Harm in the Tunisian Republic," a paper presented to the Sixth Conference of the Egyptian Society of Criminal Law, Cairo, 1993, p. 111; quoted from: Dr. Ammar Khalil Al-Muhaimid: "State Liability for Environmental Pollution Damage," PhD Thesis in Law, Ain Shams University, 2007, p. 16.

Ministry of Environment Law No. (37) of 2008 ¹, and the Iraqi legislator adopted the expanded definition to include the natural and industrial environment resulting from human activity.

Algerian Law:

The Algerian legislator defined the environment in terms of its components in Paragraph (7) of Article (4) of the Algerian Environmental Law as follows: "The environment consists of natural abiotic and biotic resources such as air, atmosphere, water, land, subsoil, plants, and animals, including genetic heritage, and the forms of interaction between these resources, as well as places, landscapes, and natural landmarks ².

The United Nations Environment Programme, under the supervision of UNESCO, has expanded its meaning, as it has come to denote more than just natural elements (water, air, soil, minerals, energy sources, and animals), but rather it is the balance of material and social resources available at a given time and in a given place to satisfy human needs and aspirations ³.

The Lugano Convention defined the environment as: "living and non-living natural resources such as water, soil, living organisms, plants and animals, and the interaction between these elements, as well as the funds created by the cultural heritage and the distinctive features of the natural landscape. This definition is expanded to include living and non-living elements and cultural heritage, in addition to the interactive relationships between the elements of the environment, which produce phenomena considered to be within the influencing and affected environment ⁴.

After explaining the definition of the environment in some Arab legislation and international agreements, we will discuss the definition of the environment according to English and French legislation.

The British Environmental Protection Act of 1990 defined the environment as: "It consists of all or any of the following media: air, water, land, as well as the air environment inside buildings and the air inside natural and man-made structures, whether above or below ground" (1). The French legislator did not provide a comprehensive, exhaustive definition of the environment, but rather mentioned it by repeating some of its elements. This was done through Article 110/1 of the French Environmental Code, which

¹ -Iraqi Ministry of Environment Law No. (37) of 2008, published in the Iraqi Gazette, Issue No. 492, issued on 10/20/2008, quoted from: Dr. Mahmoud Fakhr El-Din Othman: "Means of Environmental Protection in the Code of Civil Procedure," previous reference, p. 7.

² -Law No. 10 of 2003 on Environmental Protection within the Framework of Sustainable Development, issued on July 19, 2003, Official Gazette No. 43 of 2003, quoted from Dr. Daim Belkacem: "Positive and Legal Public Order and Environmental Protection," PhD thesis in Public Law, Abu Bakr Belkaid University, Tlemcen, Algeria, 2004, p. 134.

³ -Document No. (8) The main environmental problems in contemporary society, prepared by the United Nations Environment Programme, the International Governmental Conference on Soil and Environment held in Tbilisi (formerly the Soviet Union) under the supervision of UNESCO in October 1977 AD, quoted from Daim Belkacem, the previous reference, p. 135.

⁴ -It is the Council of Europe Convention on Civil Liability for Damage Resulting from Hazardous Activities, issued on 5/21/1996 AD, quoted from: Dr. Anwar Juma Ali: "Civil Liability Claim for Environmental Damage," previous reference, pp. 28-29.

stipulated: "Space, resources, the natural environment, natural landscapes and scenery, the purity of the air, animal and plant species, biological diversity and balance all form part of the common heritage of the nation" ¹. It is also a collection of natural elements, animal and plant species, air, water, soil, and various natural phenomena. From all these tests and procedures followed by environmental legislation, we find that there is a common denominator between them: the protection and preservation of the environment in all its forms and the human right to it.

From the above, we can define the environment as everything that surrounds and affects humans, including water, air, soil, and the facilities created by humans and the living organisms contained within this environment. In other words, the environment is composed of natural factors and human factors that humans have created through their activities within it, or it is the environment with all its elements in which living organisms live.

Section Two: The Concept of the Environment in Islamic Jurisprudence:

Islam has a deeper and broader view of the environment, unlike the available definitions of the concept of the environment, which all agree on the general framework. However, they differ in detail depending on the type of study and the definition's authors. Some view the environment as a repository or storehouse of natural and human resources. Others view the environment from an aesthetic perspective, meaning it is a resource for natural goods, public parks, and recreational areas. Others view the environment in terms of its impact on the life and growth of living organisms. Others focus on the social and economic aspects of the environment².

Islamic law has been keen to protect the environment, as God Almighty has asked man to deal with the environment based on the logic that it is public property, and that it must be preserved in order for existence to continue. God Almighty said: {And do not cause corruption on the earth after its reformation. That is better for you, if you are believers.} ³, And speaking about the beauty of nature that God Almighty has blessed us with has many aspects, and it is sufficient for us to say: Our religion is based on cleanliness, purity and beauty, and the religion orders believers to be pure in their food and drink, in their homes and clothing, in their roads, in their work and in all their conditions, and thus it becomes clear that concern for human life and happiness is the highest goal of Islamic law ⁴.

1 - Dr. Mahmoud Fakhr El-Din Othman: "Means of Environmental Protection under the Code of Civil Procedure," op. cit., p. 8.

2 -A. Nour El-Din Hamsha: "Criminal Protection of the Environment - A Comparative Study between Islamic Jurisprudence and Positive Law," Master's Thesis in Sharia and Law, Hadj Lakhdar University, Batna, Algeria, 2006, p. 17.

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4 -A. Ahmed Lakhel: "The concept of the environment and its position in Algerian legislation," Al-Mofaker Magazine, Issue 7, pp. 227-228.

Islam's concern for humans, animals, and all other terrestrial and marine creatures is a matter that is as clear and explicit as its message that the Prophet, peace and blessings be upon him, carried to all people approximately fourteen hundred years ago. What we see today of increasing concern in developed countries regarding the environment is nothing but an integral part of the Muslim faith and its sound structure, formation, and thinking at various levels and for all races ¹.

Protecting the environment is essentially a religious duty that has been emphasized by the Holy Qur'an in many blessed Qur'anic verses. God Almighty has commanded man to preserve the environment and work to make good use of it and not to spoil it, and to protect it from any harm or any possible injury that could befall it or affect it. He has set the necessary rules and regulations to prevent aggression against it and tampering with it in order for man to benefit from it and its various resources ².

Islamic jurisprudence preceded legal jurisprudence in explaining the concept of the environment, as it clearly and explicitly indicated that it means the medium or environment provided with elements that make it suitable for life and survival, and the elements and components that make a place or medium suitable for life, which God Almighty created with His great power, and they are the natural resources and elements such as the sun, moon, air, water and soil, or those that God Almighty made happen at the hands of humans by virtue of their succession on earth and their development of it, from buildings, facilities, social and economic systems and others, and this means that Islamic jurisprudence defined the environment with its two natural and constructed elements ³.

The Second Requirement: Environmental Elements

Environments vary in their elements, characteristics, and inherent features, whether they are contained within the earth's interior or the human, land and sea animals and birds that appear on its surface, as well as the plants and inanimate objects it includes ⁴. We will elaborate on the elements of the environment and the elements protected by law.

Section One: Explaining the Elements of the Environment:

The elements of the environment are represented by the natural environment, the biological environment, and the moral environment, which we will explain in this section.

¹ -Dr. Fouad Abdul Latif Al-Saratwi: "The Environment and the Islamic Dimension," Dar Al-Masirah Publications for Publishing, Distribution and Printing, 1st ed., Amman, 1999, p. 19.

² -A. Muhammad Abdullah Al-Masikan: "Environmental Protection - A Comparative Study between Sharia and Kuwaiti Law," Master's Thesis in Public Law, Middle East University, Jordan, 2012, pp. 37-38.

³ -Dr. Abdullah Jad al-Rab: "Environmental Protection from Pollution in Administrative Law and Islamic Jurisprudence - A Comparative Study," previous reference, p. 96.

⁴ -A. Sanaa Nasrallah: "Legal Protection of the Environment from Pollution in Light of International Law," Master's Thesis in Public Law, University of Badji Mokhtar, Algeria, 2011, p. 15.

The first branch: The natural environment:

The natural environment refers to the environment surrounding humans, including God's creations, such as water, air, forests, land, animals, and birds. In other words, it refers to all the living and non-living phenomena surrounding humans, in the existence of which humans have no role. These environmental phenomena include terrain, climate, natural vegetation, and marine and terrestrial animals. These phenomena, in their functional reality, are in constant self-movement and harmonious movement with one another within a specific system called the ecosystem¹. The natural environment .

includes the various elements of nature, represented by:

First: Geographical Phenomena: These are the various natural elements contained in the universe, represented by the geological composition of regions, including landforms such as mountains, plains, seas, valleys, and waterways. They also include rocky, aggregate, sandy, fertile, and mineral soils.

Second: Climate:

Climate is a fundamental element in shaping the environment. It consists of four main, interacting elements:²

1. Temperature: Its criterion is proximity to or distance from the equator, where the sun's rays are directly perpendicular to the Earth. This factor creates hot, moderate, and cold climates, along with the four distinct seasons and the length of day and night.
2. Humidity: The degree of air saturation with vapor, which varies in consistency from clear and dry, to cloudy and foggy, or drizzly with clouds and rain clouds.
3. Winds: In terms of their intensity, direction, and nature (hot, cold, rainy, dry), and the gaseous elements the air carries, whether beneficial or harmful to the respiration of living organisms.
4. Atmospheric pressure: Its standard is the degree of elevation or depression of a place above the Earth's surface and its effect on Earth's gravity, which is of particular importance in the manufacture and assembly of space vehicles and rockets³.

Third: Astronomical Phenomena:

The astronomical element in shaping the environment is centered on the movement of celestial bodies, whose influence extends to the regularity of life on Earth's surface, such as the ebb and flow of tides in the

¹ -A. Nour El-Din Hamsha: "Criminal Protection of the Environment - A Comparative Study between Islamic Jurisprudence and Positive Law," previous reference, p. 32.

² -Dr. Tariq Ibrahim Al-Dessouki: "Environmental Security – The Legal System for Environmental Protection," Dar Al-Jamia Al-Jadida, Alexandria, 2009, p. 128.

³ -A. Sanaa Nasrallah: "Legal Protection of the Environment from Pollution in Light of International Humanitarian Law," previous reference, pp. 17-18.

seas. The astronomical gravitational pull shared by Earth and celestial bodies, which began to play an important role in achieving and organizing space exploration missions, and in determining the phases of the moon and the months of the Hijri year ¹.

The Second Branch: The Biosphere:

This refers to the plant and animal environment in which humans live, encompassing all living organisms of all kinds.

1. The Vegetation Environment: Represented by crops, this environment is linked to water, the foundation of life. The Holy Qur'an links the sending down of water from the sky with the earth's production of its blessings, such as palm trees, grapes, olives, and all kinds of fruits and vegetables, as God Almighty says: {And We sent down from the sky water, and caused to grow therein [something] of every noble kind. (10) This is the creation of God, so show me what those other than Him have created. Rather, the wrongdoers are in manifest error.} ²

The animal world: It includes all kinds of animals and is not limited to creatures known to humans only, but rather extends to include other creatures that are subservient to humans and unknown to them, such as some types of bacteria. This is understood from the words of God Almighty: {And He creates what you do not know} ³, and it includes humans themselves as the most advanced type of creatures.

The Third Branch: The Moral Environment:

This is the environment that concerns humans in particular, as they are unique in representing and realizing its features. The moral environment is characterized by its reliance on reason and mental and emotional practices.

The moral environment is a reason for innovation. It is the environment that was created by man, such as monuments and civil constructions such as dams, the creation of which is due to human thought and the creative abilities that man possesses. Islam encouraged man to use his mind, contemplate the universe, and devise human works that help in the advancement and civilization of man ⁴.

Section Two: Elements of the Legally Protected Environment

The environment consists of two main elements that interact and are influenced by each other: a natural element and an artificial element. The natural element consists of all the resources and wealth that God has created in nature, which together constitute the necessary components for life and its continuity,

¹ -Dr. Tariq Ibrahim Al-Dasouqi: "Environmental Security - The Legal System for Environmental Protection," previous reference, p. 128

² -Surah Luqman: Verse (10-11)

³ -Surah An-Nahl: Verse (8)

⁴ - Dr. Mahmoud Saleh Al-Adly: "The Shining Jewels in Islam and Environmental Protection," Dar Al-Nahda Al-Arabiya, Cairo, 2nd ed., 1997, pp. 10-11.

including water, air, seas, forests, rivers, and land. These elements were not created by human will; rather, their existence predates the existence of man. The artificial element consists of a group of things that man has created over time, including systems, tools, constructions, equipment, and the like, and has harnessed them to control the components of the natural element and utilize them to meet his needs and requirements¹. We will present the most important elements of the environment in most legal systems, which are suitable for being the subject of pollution criminalized in environmental pollution crimes, as follows:

The first branch: Air

This element represents the atmosphere surrounding Earth, and is globally called the atmosphere because it consists of gases essential for the life of humans and other living organisms. Any changes in the natural components of the atmosphere can have negative effects on these organisms, whether humans or other animals and plants.

Human activity in our modern era has led to an imbalance in the natural elements of the air in a way that poses serious dangers to life on the surface of the Earth, due to the materials or energy it has introduced directly or indirectly into the atmosphere².

Countries have become aware of the danger of harming the atmosphere and the repercussions of this on all living organisms. They have therefore taken the initiative to issue laws that prohibit the emission of airborne components such as fumes, odors, and radiation at levels exceeding established limits, especially after science has proven that air pollution rates are increasing at high rates annually.

Libya has witnessed an active industrial movement since the seventies, where the number of industrial projects (strategic, medium and light) reached about 2,500 projects that depend on operating on petroleum derivatives, which led to the emergence of the problem of air pollution, as such projects emit toxic gases such as sulphur oxide, hydrogen sulphide and ammonia³.

The Libyan legislator has addressed the issue of protecting the air environment from all elements of pollution, as Law No. (15) of 2003 assigned the problem of maintaining a healthy air environment to the relevant authority, such as the Municipal Environmental Guard, and to some other administrative structures, such as the Environmental Protection Center, through coordination with the General Environment Authority⁴.

¹ -A. Sanaa Nasrallah: "Legal Protection of the Environment from Pollution in Light of International Humanitarian Law," previous reference, pp. 17-18.

² -A. Muhammad Abdullah Al-Masikan: "Environmental Protection - A Comparative Study between Sharia and Kuwaiti Law," previous reference, pp. 35-36.

³ -A. Mabrouka Karim Al-Baraki: "Legal Protection of the National Environment through Special Legislation Provisions," Master's Thesis in Public Law, University of Al-Marqab, Libya, 2008, p. 25.

⁴ -A. Khaled bin Ali Al-Abbasi: "Criminal Policy for Environmental Protection and Criminalization of Damage to the Environment in Tunisian and Libyan Legislation," Master's Thesis in Criminal Law, University of Al-Marqab, Libya, 2009, p. 92.

The legislator imposed a set of obligations on individuals and organizations with the intention of protecting the atmosphere from pollution, the violation of which results in the emergence of air pollution crimes. Among these obligations is what is stipulated in Article 10 of the Libyan Environmental Law, which obligates any facility or factory from which any air pollutants are emitted to not violate the scientific rules and standards approved in implementation of the provisions of this law ¹.

We note that some laws lack enforcement, particularly with regard to noise levels in major cities, due to the proliferation of loudspeakers or the failure to comply with the time limits for licensing the use of loudspeakers during summer evenings.

We find that the Egyptian legislator stipulated, through Environmental Law No. (4) of 1994 AD and its amendments and its executive regulations No. (338) of 1995 AD, provisions to combat the emission of gases and compounds that pollute the atmosphere, and to reduce project gases, as it is required that the site on which the project is established be suitable for the activity of the industrial or tourist facility or electricity production and generation facilities, mining and quarry facilities, facilities operating in the field of oil exploration, extraction, transportation and use, and any other facilities that have a noticeable impact on the environment ².

Article (37) of the Egyptian Environmental Law No. (4) of 1994 also included an absolute ban on preventing certain actions due to their harmful effects on the environment, a ban that is without exception or license³, as it prohibited the dumping, treatment or burning of garbage and solid waste except in designated places far from residential, industrial and agricultural areas and waterways. Article (43) of the Environmental Law also stipulated in the field of air protection in the work environment, as the legislator obligated the owner of the facility to take the necessary precautions and measures to prevent the leakage or emission of air pollutants inside the workplace except within the permitted limits⁴. Article (46) of the Egyptian Environmental Law stipulated that the manager responsible for the facility must take the necessary measures to prevent smoking in places, and in this case, the allocation of smoking areas must be taken in a way that does not affect the air in other places. It also prohibited smoking in public transportation, and the legislator considered it to be a closed public place ⁵.

Many countries in the world have become aware of the danger of harming the atmospheric environment and the repercussions of this on all living organisms on Earth. They have initiated various laws that aim, in their entirety, to prevent the emission of air pollutants such as fumes, odors, radiation, and the like,

¹ -A. Marai Mohammed Al-Falah: "Legal Protection of the Right to a Clean Environment in Libyan Law," a paper presented at the Seventh International Conference on Development and Environment in the Arab World, March 23-25, 2014, Center for Environmental Studies and Research, Assiut University, Egypt, p. 388.

² -Dr. Muhammad Mahmoud Al-Ruby: "Administrative Control and Its Role in Environmental Protection - A Comparative Study," Publications of the Library of Law and Economics, 1st ed., Riyadh, 2014, p. 586.

³ -Article (37) of Egyptian Law No. 4 of 1994 and its amendments.

⁴ -Article (43) of the Egyptian Environmental Law No. (4) of 1994 and its amendments.

⁵ -Article (46, Paragraph 1/2) of the Egyptian Environment Law No. (4) of 1994 and its amendments.

especially after it was scientifically proven that air pollution rates increase annually at high rates. In Belgium, for example, the law on air pollution was issued in 1967 AD and amended on 15/12/1970 AD and amended in 1981 AD. In the United States, the law was issued on 27/12/1963 AD, the Clean Air Act, which was amended and developed several times ¹.

The Second Branch: Water

Water of any type is considered polluted with one or more substances if it is unfit for its intended use. River water is polluted by the direct or indirect introduction of substances or energy into it by humans, causing harmful effects. This results in the water becoming less suitable for its intended uses. Water pollution generally results from the discharge of massive amounts of urban waste, industrial waste, and power plant waste. Sewage and agricultural wastewater also pass untreated, leaking into running water or groundwater, containing nitrates, chemicals, and various toxins. This applies to freshwater. Saltwater, represented by seas and oceans, may be polluted by oil spills from ships or nuclear tests on the seabed, or by marine disasters, collisions, and the sinking of oil tankers, which in turn cause significant damage to the marine environment in general ².

In Libya, the sea is considered an important economic resource, whether it is related to its fish wealth or to the tourists it attracts to enjoy the summer on its beaches. The legislator has become aware of these two points to take care of two basic problems: the first concerns marine fishing, and the second concerns pollution. The Libyan legislator has enacted many legal texts that are concerned with preserving fish wealth and regulating the land fishing sector, including Law No. (15) of 2003 AD related to protecting and improving the environment, in addition to the issuance of Implementing Resolution No. (38) of 2003 AD regarding the executive regulations of the aforementioned law ³.

In Egypt, we find that due to the deterioration of the marine environment and the resulting noticeable increase in pollution caused by sewage in the waters of the eastern beaches of Alexandria, which has become a threat to marine organisms and the environment, this has made Egypt concerned and sign international agreements in addition to issuing national laws to preserve the marine environment ⁴. The conclusion of these legislative efforts in Egypt was the issuance of Law No. (4) of 1994 and its amendments regarding environmental protection, which devoted the third chapter to protecting the aquatic environment from pollution. We find that it dealt in its first chapter with pollution of the aquatic

¹ -A. Sanaa Nasrallah: "Legal Protection of the Environment from Pollution in Light of International Humanitarian Law," previous reference, p. 20.

² -A. Muhammad al-Mahdi Bakrawi: "Environmental Protection During Armed Conflicts - A Comparative Study between Islamic Jurisprudence and Public International Law," Master's Thesis in Sharia and Law, Hadj Lakhdar University, Algeria, 2010, pp. 55-56.

³ -A. Khaled bin Ali Al-Abbasi: "Criminal Policy for Environmental Protection and Criminalization of Damage to the Environment in Tunisian and Libyan Legislation," previous reference, p. 92.

⁴ -Dr. Muhammad Mahmoud Al-Ruby: "Administrative Control and Its Role in Environmental Protection - A Comparative Study," op. cit., p. 586.

environment from ships and devoted a second chapter to pollution of the aquatic environment from land sources ¹.

The Third Branch: Soil:

Soil refers to the thin covering that covers the Earth's surface. It is the most important natural resource for humanity, or the fragile layer that covers the rocks of the Earth's crust. It consists of a complex mixture of mineral and organic materials, water, and air. It is a natural resource within the environment that is renewable and is one of the basic requirements for life on planet Earth. Soil is the foundation and basis upon which agricultural activities are based. It is doubtful that any people would be able to live and continue without soil, as it is the foundation of material wealth and the source of its production ².

Due to the importance and vitality of this environmental element, legislators in the world have paid great attention to protecting it and not exposing it to damages that cause great harm and risks to human life. As for Libya, it has ratified several agreements related to the protection of the terrestrial environment, which include natural resources and global cultural wealth, as natural resources, according to the preamble to the African Agreement in Algeria, constitute capital of vital importance to humans. These natural resources include plant and animal resources, water and soil ³.

In 1972, the European Council approved the European Soil Charter, which addressed the resources due to their great importance, as they are considered among the primary necessities in the life of humans and all other living organisms. This Council defined soil as: "The living and dynamic environment that enables the survival of plant and animal life. It is the basis of human life as a source of nutrition and a source of primary resources ⁴.

In Egypt, the Egyptian legislator issued many necessary legislations to protect the soil element, including Law No. (53) of 1966 AD regarding agriculture, and the decision of the Minister of Agriculture No. (215) of 1985 AD regarding agricultural pesticides, in addition to the Environment Law ⁵.

Conclusion:

This study addressed the concept of the environment and its components. The study concluded with a set of conclusions and recommendations, the most important of which are listed below:

First: Results:

1. Environmental pollution is a significant problem facing all countries, both developed and developing, due to its serious consequences for human health, although the severity varies from one country to another.

¹ -Law No. (4) of 1994 regarding environmental protection in Egypt and its executive regulations No. 338 of 1995.

² -Dr. Haider Khader Al-Mawla: "A Brief Introduction to Comparative Environmental Law," Zain Legal and Literary Publications, 1st ed., 2006, pp. 116-117.

³ -A. Khaled bin Ali Al-Abbasi: "Criminal Policy for Environmental Protection and Criminalization of Environmental Harm in Tunisian and Libyan Legislation," op. cit., p. 102.

⁴ -A. Khaled bin Ali Al-Abbasi, the previous reference, p. 102

⁵ -Dr. Muhammad Mahmoud Al-Ruby: "Administrative Control and Its Role in Environmental Protection - A Comparative Study," previous reference, p. 604.

2. Environmental pollution is increasing day by day due to the industrial progress and tremendous technological development we are witnessing in all fields, which has led to an increasing reliance on machines to facilitate most daily needs, saving time and effort.

3. The lack of awareness among individuals regarding protection from the dangers of environmental pollution, the underestimation of its impact on public health, the weakness of specialized agencies and personnel, and the lack of complaints against environmental pollution by members of society have all led to the lack of effective implementation of legal provisions related to environmental pollution protection.

Second: Recommendations

1. We suggest that the Libyan legislature grant rewards to individuals who undertake activities or projects that protect the environment, as an incentive to conserve the environment, similar to the Egyptian legislature. It is also necessary to provide financial and technical support to the private sector to enable individuals to use modern technologies to reduce environmental pollution, and to expand the incentive approach to protect the environment from pollution, such as providing tax exemptions, credit facilities, and other incentives for those undertaking projects that protect the environment.

2. We hope to add a provision to environmental protection laws stipulating the disciplinary action of employees responsible for environmental protection in the event of their negligence or failure to perform their duties in this regard.

3. Amend the legal penalties stipulated in the legislation related to the crime of environmental pollution, such that the fine is no less than two hundred dinars, as the higher the fine, the more effective deterrence is achieved. Furthermore, impose progressive fines on individuals who commit the crime of environmental pollution in the event of recidivism.

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