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Environmental Pollution Crime

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Abstract:

This study deals with the crime of environmental pollution in Jordanian law and international conventions, by defining the environment and pollution in jurisprudence, law and the judiciary, and stating the legal basis for the penal responsibility resulting from environmental pollution, through the statement of the material and moral pillars in environmental crimes. The study also deals with the image of the crime of environmental pollution from by clarifying the responsibility of the natural person and the legal person and clarifying the penalty for committing environmental crimes.

Keywords: environmental law; international conventions; pollution, environment; environmental crimes.

JEL Classification: K32; Q56; R11.

Introduction

The importance of this study stems from the fact that it deals with an important legal issue, which is the crime of environmental pollution in Jordanian law and international conventions. And what it contains of minerals, sources, energy, soil, water, and climatic elements such as heat, wind, natural plants and animals, and the damage to the environment has many forms, the most important of which is pollution, which is the most common form. All legislations provide adequate legal protection for the environment?

The objectives of the study are a statement of the definition of environment and pollution, and a statement of the legal basis for the criminal responsibility resulting from environmental pollution, represented in the material and moral pillars in environmental crimes, and clarifies the picture of the crime of environmental pollution by clarifying the responsibility of the natural person and the legal person, and the statement of the penalty for committing environmental crimes. The study relied on the descriptive approach of legal texts and jurisprudential opinions related to the subject of the study. The study concluded with a set of findings.

1. Definition of the Environment

The environment is considered the medium in which man lives, and his behavior and activity are regulated by a set of legal rules to preserve his life and health humanly (El-Baz.) The declaration issued by the Conference on the Human Environment - which was held in Stockholm, Sweden - defined the environment as everything that surrounds man, whether natural or human (El-Din 2000). As for the International Conference on Environmental Soil, which was held in Tbilisi in the Soviet Republic of Georgia, it defined it as the framework in which a person lives and obtains the necessities of his life from food, clothing, medicine and housing, and in which he exercises his relations with his fellow human beings (Kassab 2006).

As for the Jordanian Environmental Protection Law of 2017, it defined the environment in Article Two as the environment that includes living and non-living organisms, and what it contains of resources such as air, water and soil and the interactions of any of them, and the facilities built by man in it. We note that the legislator took the broad concept of the environment. The definition included the elements of the natural and industrial environment.

The environment is a set of physical, organic and inorganic conditions and factors that help humans and other living organisms to survive and sustain life (Salama 1997). In the sense that it is the medium or spatial field in which man lives and is affected by and affected by it, with all that this spatial field includes of natural elements such as rocks and what it contains of minerals, sources, energy, soil, water, and climatic elements such as heat, wind, natural plants and animals (Abdul Qawi 2002), it is the combination of natural and unnatural elements in the medium in which man lives.

It is known that the damage to the environment has several forms, the most important of which is pollution, which is the most common form. Pollution poses a threat to the composition of the elements of the environment surrounding the human being. The water in the seas has become polluted with waste and oil residues, and the air is polluted with gases due to the burning of factories, food is polluted, and the soil is infected. Pollution is caused by chemical fertilizers (Al-Amir 2019). Therefore, the Convention on Long-Range Transboundary Air Pollution, held in Geneva, defined air pollution in Article 1/A as the direct or indirect human introduction of substances or energy into the atmosphere or air that has a harmful effect that endangers human health. Damage to vital resources and ecosystems and corruption in physical conditions (Salwa).

Article 1/4 of the United Nations Convention on the Law of the Sea defines pollution of the marine environment as the introduction by man into the marine environment of substances or energy that result in, or are likely to result in, harmful effects that endanger human life and impede marine activities (Al-Amir 2019).

2.The Legal Basis for Criminal Liability Resulting from Environmental Pollution

Every crime has a place, and this applies to environmental crimes, and the elements of the environment are the subject of the crime, and these elements are natural or artificial, which is what the Jordanian legislator referred to in Article 2 of the Environmental Protection Law, where the elements of the environment are limited to soil, water and air (Al-Amir 2019). Criminal responsibility is the authority of the person who committed the crime to bear the responsibility of the penalty decided against him according to the text of the law (Suleiman 2000).

The material component of environmental crimes:

The material element of the crime is an external act other than ideas and intentions. It is legitimate as long as it is not embodied in the form of material behavior that appears in the outside world. This element is based on the criminal behavior, the criminal outcome and the causal relationship.

Criminal behavior: It is a behavior that has material manifestations that are realized in the outside world, which leads to harming the interests to be protected or threatening its occurrence (Al-Amir 2019). Pollution is achieved by the addition, dumping or leakage of polluting materials, or abstinence resulting in damage to the elements of the environment (Al-Amir 2019).

Therefore, in order for the criminal behavior to be realized in the crime of environmental pollution, the act of pollution must occur in the environmental environment (Al-Amir 2019), which is the place where the crime was committed, positive or negative image (Najm 2010). With regard to environmental pollution offenses that fall under the category of public exposure; The legislator criminalizes all patterns of human behavior that appear by committing a danger to the environmental element that can be described as a general danger (Al-Amir 2019).

Article 9/1 of the Jordanian Environmental Protection Law stipulates that "he shall be punished by imprisonment for a period of not less than one year and not exceeding three years, or a fine of not less than ten thousand dinars, or with these two penalties the captain of the ship, ship, tanker, or vessel that was thrown or pouring polluting materials from any of them, or dumping them in the territorial waters of the Kingdom of Jordan, or the beach area.

In the Jordanian law, the legislator mentioned some pollution crimes. For example, Article 19 stipulates that the owners of factories, vehicles and workshops, or any party that engages in an activity that has a negative impact on the environment, and from which environmental pollutions emerge, is obligated to install devices to prevent and reduce the spread of those pollutants from them, and to control the pollutants before emission from the factory, or committed in the atmosphere to the extent permitted, otherwise the person concerned shall be punished according to Paragraph B of Article 19 with a penalty of imprisonment for a period of not less than one week and not more than 30 days, or a fine of not less than 100 dinars and not more than One thousand dinars, or with both penalties, with the removal of the violation within the period specified for that, and a fine of no less than

fifty dinars, and not more than one hundred dinars for each day he fails to remove the violation after the prescribed period for its removal.

Criminal consequence: The criminal consequence is the effect of the criminal behavior, for which the legislator decides the criminal punishment for him. So that the criminalization focuses on the same criminal activity of the offender, whether it was an act or omission, regardless of any related result to which the activity leads (Najm 2010).

Some crimes against the environment and their elements are integrated as harm crimes, which represent a specific material result as an effect of the criminal behavior of the offender, and is an essential element in the legal model of crime, as it is represented in achieving actual damage to the interest that the legislator wanted to protect, as the penal legislator was interested in the result The dangerous that represents the harmful result that may occur in the future by criminalizing the act regardless of the achievement of any result behind it, that is, the criminalization is contained merely because a certain interest is threatened by danger, due to the commission of the act, which is the so-called endangerment crimes, and these crimes represent a threat to the legally protected interest, That is, it represents a danger to this interest, and the criminalization aims to protect the interest from the possibility of being exposed to danger, without incurring actual damages (Al-Nasser).

The causal relationship between the criminal behavior and the result: the causation relationship is the third element of the material element of crimes affecting the environment, and the legislator considers the result of the criminal behavior, that is, the result that the criminal text takes into account for the establishment of the crime legally, so it is necessary for the material element to be established Crimes affecting the environment that the behavior is the cause that led to the occurrence of the criminal outcome (Salama).

The judgment is based on the availability of the causal efficacy of the behavior that constitutes environmental crimes, which fall within the category of exposure to general danger to the possibility, given that the result has not actually been achieved so that the effectiveness of the behavior in its events can be asserted. Conduct that threatens a right protected by law and makes possible harm. In crimes affecting the environment, we find that the appropriate causal theory corresponds to this crime in determining the causal relationship between behavior and the result, so that the criminal behavior is what led to the occurrence of the result (Salwa).

3.The Moral Element of Environmental Crimes

It is assumed that there is a psychological relationship between the perpetrator of the illegal act and the harmful act and result, and this relationship results from his intention and will to commit the crime. The laws define this matter with criminal intent, and the Jordanian Penal Code calls it intent, where Article 63 of it defines the criminal intent as the will to commit the crime as defined by the law. The general criminal law, as stipulated in Article 11 of the Jordanian Environmental Protection Law, where "it is prohibited to throw any substance polluting, or harmful to the marine environment, in the territorial waters of the Kingdom of Jordan, or on the beach area, within the schedule and distances determined by the Minister in accordance with instructions issued by him."

The concept of criminal intent is clear in the intended crimes, while the unintended crimes are based on the unintended mistake that is negligence, lack of caution, and failure to observe laws and regulations. Lack of caution, or failure to observe regulations and laws.

4.The Image of The Crime of Environmental Pollution in the Jordanian Legislation

4.1 Responsibility of the Natural Person and the Legal Person

The responsibility of a natural person is based on a personal error as a traditional form of penal responsibility, and it may be for the act of others, as someone else may commit the crime. The principle is that the criminal responsibility of the individual is personal, so the individual is not asked about the work of others, and the application of this principle in environmental crimes is unimaginable, because there are several reasons that cause pollution in the environment, as it is not possible to determine the cause that led to the pollution of the environment, so that we are facing an environmental crime and attribution This crime is committed by the one who committed it (Al-Amir 2010). Therefore, environmental legislation differed in determining the natural person who can be held accountable for environmental crime, and there are 3 types:

- Legal attribution: where the legislator criminalizes the behavior of a natural person by referring to the law, and the Jordanian legislator has taken legal attribution in Article 4 of the Environmental Protection Law.

- Material attribution: where a person is attributed this act, whether positive or negative, which was the cause of the environmental crime. The Jordanian legislator addressed the material attribution in Article 8 of the Environmental Protection Law.

- The criminal responsibility for the act of others, which is the assumed responsibility, may be the responsibility of an individual who contributes to the crime as the perpetrator or partner, and this responsibility is established by the text of the law (Makhlaf). The legislator addressed the crime of environmental pollution, as it decided a penalty against the perpetrator of the crime in Article 74/2 of the Penal Code.

4.2 Punishment for Environmental Crime

We find that most countries in their legislation have alerted to the seriousness of the crime of environmental pollution, because of the harmful effects of pollution that threaten the surface of the globe, as these legislations came with many penalties for the crime of environmental pollution. The provisions of this article include a fine of no less than twenty thousand dinars, or imprisonment for a period of no less than three years, and not more than 15 years, or with both penalties (Al-Amir 2010).

Conclusion

The study reached a set of results, namely:

The environment is defined as the medium or spatial field in which man lives and is affected by and affected by it, with all that this spatial field includes of elements and data, whether they are natural, such as water, and what it contains of minerals, sources, energy, soil, water, and climatic elements such as heat, wind, natural plants and animals.

The damage to the environment has many forms, the most important of which is pollution, which is the most common form. Pollution poses a danger to the composition of the elements of the environment surrounding humans.

The legal basis for criminal liability resulting from environmental pollution is the material and moral elements of environmental crimes.

The responsibility of a natural person is based on a personal error as a traditional form of penal responsibility, and it may be for the act of others, as someone else may commit the crime. The principle is that the criminal responsibility of the individual is personal, so the individual is not asked about the work of others, and the application of this principle in environmental crimes is unimaginable.

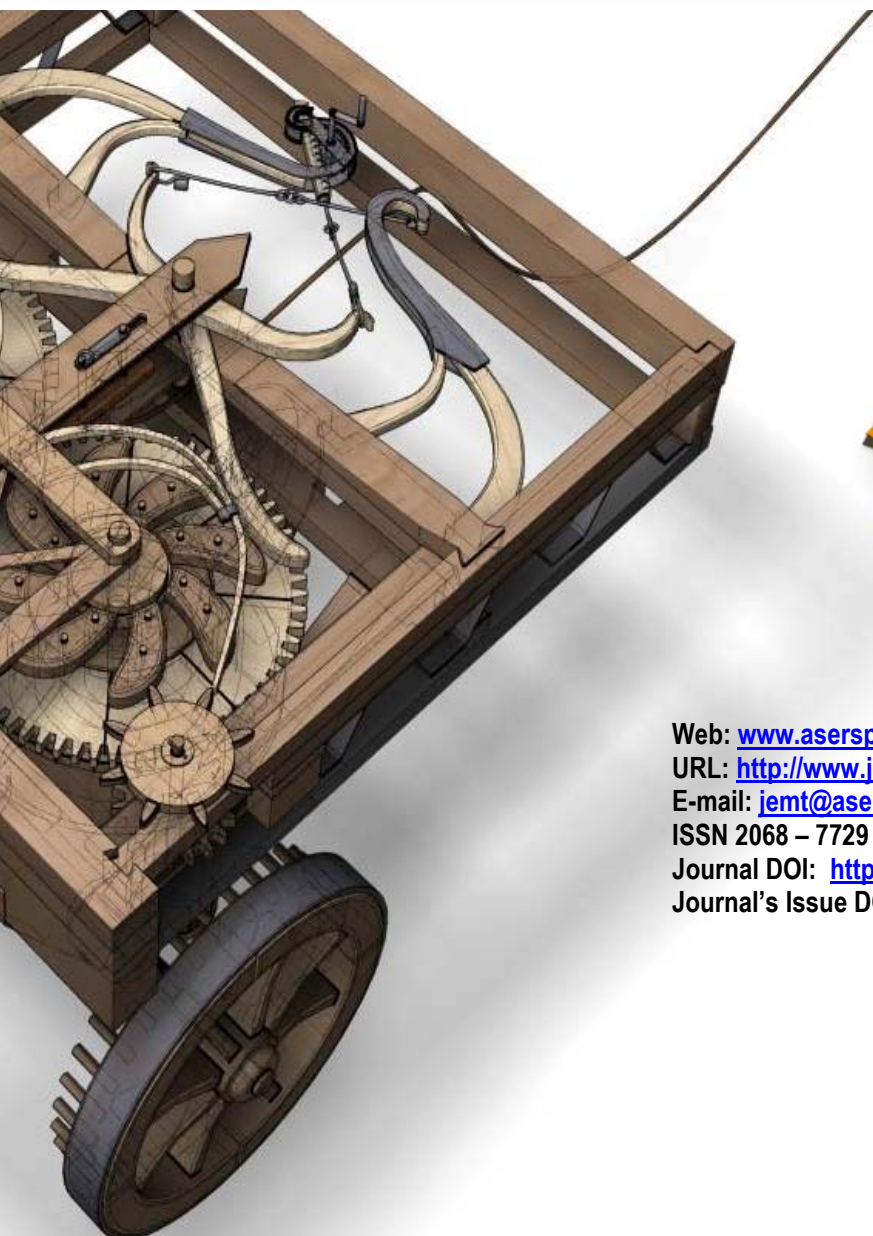
The Environmental Law provides for many penalties related to the crime of environmental pollution.

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