

THE ENVIRONMENTAL RIGHT WITH IN THE CONTEXT OF SUSTAINABLE DEVELOPMENT AND THE INTERNATIONAL LEGAL FRAMEWORK FOR ITS PROTECTION

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Abstract:

The right to a healthy environment has emerged as a fundamental human right, garnering increasing international attention due to the unprecedented environmental degradation caused by technological advancements, industrial production, and novel methodologies. These factors pose a significant threat to global sustainability, impacting both natural ecosystems and economic productivity.

The unsustainable exploitation of resources and the relentless pursuit of development have eroded the foundations of sustainable development. The past three decades have witnessed a growing recognition that the prevailing development model, rooted in modernity, is no longer viable. The consumerist lifestyle associated with this model has led to severe environmental crises, including biodiversity loss, deforestation, air, water, and soil pollution, global warming, devastating floods caused by rising sea levels, and the depletion of non-renewable resources. These challenges have prompted critics of the current development paradigm to advocate for alternative, sustainable models that harmonize developmental goals with environmental protection. To ensure compliance with these principles, it is imperative to establish robust legal frameworks and impose deterrent penalties on those who violate environmental regulations.

Keywords: *environment, right to a healthy environment, sustainable development, economic penalties, international environmental law.*

INTRODUCTION:

The natural environment consists of fundamental elements such as water, air, soil, plants, and animals, all intricately interconnected in a delicate ecological balance. Any disruption to this balance can lead to environmental imbalances and disrupt natural systems.

The rapid pace of sustainable development, particularly in developed countries, has had and continues to have, both general and specific impacts on the environment. Consequently, numerous international organizations and governments have enacted laws and regulations to protect the environment and imposed penalties for violations. However, these frameworks vary significantly between countries and legal systems.

Many nations have incorporated environmental protection into their domestic legislation to balance sustainable development with environmental preservation. Nevertheless, the implementation of these laws often faces practical challenges, such as enforcement issues or shortcomings in the legal framework itself.

This necessitates empirical research to safeguard our planet, which is essential for all life. This research addresses the following central question:

Are international frameworks for environmental protection, within the context of sustainable development, sufficient to prevent environmental violations?

Subsequent questions arising from this central question include:

- What are the concepts of environment and sustainable development?
- How can these be protected?
- To what extent do international and national laws contribute to environmental protection?
- How does sustainable development impact the environment?
- Are economic sanctions effective in protecting the environment?

To investigate this topic, a descriptive-analytical approach will be employed. This involves exploring the conceptual framework of the environment and sustainable development, analyzing the international perspective on environmental protection within the context of sustainable development, and examining the role of economic sanctions.

The research will address the following key themes:

- **Firstly, The Concept Of Environment And Sustainable Development**
- **Secondly, Environmental Protection And Sustainable Development As Civilizational Values**
- **Thirdly, The Right To Environmental Protection In International Law**
- **Fourthly, The Impact Of Sustainable Development On The Environment**
- **Fifthly, The Role Of Economic Sanctions In Environmental Protection And Sustainable Development**

Through a concise examination of these themes, the study aims to arrive at tangible conclusions that can contribute to safeguarding this fundamental right.

Firstly, The Concept of Environment and Sustainable Development

1. The Concept of Environment:

We will approach this concept from both linguistic and terminological perspectives.

1.1 Linguistic Perspective:

The Arabic word for "environment" originates from the root "baw-a," from which the past tense verb "baa" is derived. Ibn Manzur, in his renowned lexicon *Lisan al-Arab*¹, explains that "baa" means "to return to something." The same lexicon provides similar meanings for the word "Tabaww-a," which can signify "to prepare a place for habitation" or "to descend and reside." The concept of "environment" is also found in *Asas al-Balaagha*², *al-Qamus al-Muhit*³, and *al-Sihah al-Jawhri*⁴, all of which associate it with the idea of a dwelling or abode. *Al-Wasit Dictionary* defines "environment" as both a place and a condition⁵, and it can refer to natural, social, or political environments. *al-Munjid lexicon*⁶, the verb 'bawa' is defined as 'to prepare a place for someone and cause them to dwell there'. In French, the equivalent term "environment" encompasses a set of natural elements and conditions such as land, water, air, and living organisms⁷. In English, the terms "environment"⁸ and "ecology"⁹ are often used interchangeably, with the former referring to the external conditions affecting living organisms and the latter specifically denoting the study of the relationships between organisms and their environment¹⁰.

1.2 Terminological Perspective:

Based on the linguistic analysis, "environment" can be understood as the place where a living being resides and the conditions that affect its life. In Western languages, the concept is broader, encompassing all the elements and factors that influence living organisms. From an Islamic perspective, there are various definitions of the right to a healthy environment¹¹.

2. The Concept of Sustainable Development:

2.1 Linguistic Perspective:

Sustainable development consists of two terms: "development" and "sustainable." "Development" is derived from the root "namm-a," meaning to grow or nurture. "Sustainable" "means to endure or continue.

2.2 Terminological Perspective:

Development, in a technical sense, refers to the increase in resources, capabilities, and productivity. Although a relatively recent term, it has been used to describe various activities such as economic, social, and human development. Economic development focuses on the optimal use of natural and human resources to achieve sustained increases in income. Social development aims to improve the social conditions of a population by increasing individuals' ability to utilize available resources and achieve greater freedom and well-being. Human development, on the other hand, empowers individuals to make choices about their lives, such as their income, security, and political status. It's important to note that these types of development are interconnected and influence each other. The concept of sustainable development was introduced by the Brundtland Commission report, "Our Common Future," in 1987. It refers to development that meets the needs of the present without compromising the ability of future generations to meet their own needs¹².

Sustainable development involves investing in natural resources in a way that promotes development, reduces pollution, and conserves natural resources. It prioritizes human needs, such as food, shelter, and education, while ensuring that future generations have access to these resources¹³.

Consequently, sustainable development has been defined as "activities aimed at investing in environmental resources in a manner that promotes development, reduces pollution, conserves and develops natural resources, rather than depleting and dominating them. It is a development that considers the rights of future generations to the natural resources of the biosphere and prioritizes human basic needs such as food, shelter, clothing, employment, education, and access to healthcare and everything related to improving the quality of material and social life. It is a development that stipulates that we should not take more from the Earth than we give back¹⁴.

In other words, it requires solidarity between the current and future generations and guarantees the rights of future generations to environmental resources. The goals of sustainable development are to improve the living conditions of all people on Earth and to provide the means for well-being, health, and stability for every individual¹⁵.

Secondly, Environmental Protection and Sustainable Development as Civilizational Values

With the proliferation of environmental problems since the Industrial Revolution and the escalating severity of these issues, a new movement known as the "green movement" has emerged. This movement advocates for environmental protection to safeguard the planet and its inhabitants, preventing the degradation of air, water, and soil quality. Environmental conservation has become a fundamental value of contemporary civilization, embraced by politicians in their electoral platforms, planners in their development strategies, and media outlets in their advocacy¹⁶.

Green ideas have spread widely across many countries, encompassing concepts such as saving nature, preserving forests, protecting biodiversity, and safeguarding the ozone layer¹⁷.

The widespread environmental degradation and the intensification of environmental problems—including pollution, ecosystem disruption, global warming, desertification, and the endangerment of numerous species—have caused widespread alarm about the potential decline of modern civilization if environmental issues remain unaddressed. Consequently, there has been a growing call for the adoption of green values and a re-evaluation of the human relationship with the environment. Non-governmental organizations and civil society groups have become increasingly active in advocating for environmental protection. In the past two decades, the environmental movement has gained significant momentum, with green political discourse offering new perspectives that place humans "on an equal footing with all other living beings¹⁸.

At the 1992 Earth Summit in Rio de Janeiro, attended by world leaders, the concept of sustainable development was adopted as a civilizational value. Achieving sustainable development has become a major goal for many countries, especially in light of the depletion of many of the Earth's non-renewable resources.

At the beginning of the 21st century, there has been a growing interest in grounding environmental ethics in religious values and linking these values to the goals of sustainable development. Environmental organizations have begun to incorporate religious values into their programs aimed at achieving sustainable development, which seeks to balance the rational use of natural resources with the needs of industrial, agricultural, urban, and human development¹⁹.

Thirdly, The Right to Environmental Protection in International Law

The increasing impact of pollution on the environment and the urgent need to develop legal frameworks for environmental protection and conservation have placed environmental issues at the forefront of the international agenda. This raises questions about the concept of environmental law, key international agreements in this field, and international mechanisms for environmental protection. Before delving into the concept of environmental law, it is essential to provide a brief overview of its historical and legal background²⁰.

The history of environmental conservation dates back at least three thousand years to ancient Ur (modern-day Iraq), where laws were enacted to prevent the depletion of forests. Similarly, the Roman Senate, nearly two thousand years ago, passed a law to conserve water during droughts. It is worth noting that the roots of environmental conservation are deeply embedded in the teachings of divine religions and even in the rituals of pagan religions like Buddhism and Hinduism, which guide their followers towards the proper care of nature²¹.

Environmental law emerged as a result of developments in the field of environmental pollution, which demonstrated the importance of recognizing the human right to a healthy and suitable environment. This right is considered a third-generation human right, known as solidarity rights²².

International environmental law is relatively recent, with its origins tracing back to the late 1960s, a period marked by significant economic growth following World War II. Environmental law is a branch of public international law that focuses on protecting the environment in all its aspects. The main subjects addressed by international environmental law include: preventing marine pollution, ensuring the protection and sustainable use of marine resources, protecting the atmosphere from pollution, protecting plants, forests, and wild animals, protecting unique ecosystems, and protecting the environment from pollution²³.

Based on the foregoing, international environmental law can be defined as "a set of international legal rules and principles that govern state activities to prevent and reduce various harms caused by different sources to the environment." Through this law, numerous agreements have been concluded on environmental protection at both the global and regional levels. Some of the most important global agreements include:

- ❖ The 1954 London Convention on the Prevention of Marine Pollution by Oil.
- ❖ The 1960 Paris Convention on Nuclear Tests.
- ❖ The 1969 Convention on Intervention on the High Seas in Cases of Marine Pollution Casualties.
- ❖ The 1970 Brussels Convention on the Conservation of Wild Birds.
- ❖ The 1972 Paris Convention, under the auspices of UNESCO, concerning the Protection of the World's Cultural and Natural Heritage.
- ❖ The 1972 Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft.

- ❖ The 1972 Stockholm Declaration on the Human Environment.
- ❖ The 1977 Washington Convention, under the auspices of the International Labour Organization, concerning the protection of workers from the risks arising from air pollution, noise, and similar agents in the working environment.
- ❖ The 1980 World Charter for Nature.
- ❖ The 1982 United Nations Convention on the Law of the Sea.
- ❖ The Vienna Convention for the Protection of the Ozone Layer.
- ❖ The 1986 International Convention on Mutual Assistance in Case of Nuclear Accident or Radiological Emergency.
- ❖ The 1992 Rio Declaration on Environment and Development.
- ❖ The 1994 United Nations Convention to Combat Desertification.
- ❖ The Kyoto Protocol of 1997.

At the regional level, important agreements include:

- ❖ The 1968 African Convention on the Conservation of Nature and Natural Resources.
- ❖ The 1974 Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area.
- ❖ The 1982 Jeddah Convention on the Protection of the Red Sea and Gulf of Aden against Pollution.

Regarding international mechanisms for protecting environmental law, after the 1972 Stockholm Conference, which was attended by representatives of all United Nations member states, the United Nations Environment Programme (UNEP) was established. This agency contributes to disseminating environmental knowledge. Other specialized international organizations, such as the Food and Agriculture Organization (FAO) and the International Labour Organization (ILO), have also provided mechanisms for addressing environmental issues.

Various Arab legislations have addressed the right to a healthy environment and its protection through numerous provisions, regulations, and supervisory bodies. International law has established several principles such as the precautionary principle, the polluter pays principle, and the principle of environmental impact assessment for proposed economic projects. It has also defined tools for environmental management, including environmental information, setting environmental standards, planning environmental activities, establishing specific legal systems and regulatory bodies, and facilitating public and societal involvement in environmental protection²⁴.

Fourthly, The Impact of Sustainable Development on the Environment

Since time immemorial, humans have exploited natural resources for daily life and to build civilizations. However, this exploitation has often been haphazard and unsustainable, leading to environmental damage and ecological imbalance. To restore the environment, it is necessary not only to eliminate pollution sources but also to develop resources and improve their utilization. Biodiversity preservation depends primarily on the continuity and sustainability of natural resources. The depletion of renewable and non-renewable resources has disrupted biodiversity on Earth. To preserve biodiversity, several methods can be employed to reduce this depletion, such as: developing new energy sources, reducing consumption of existing non-renewable resources, and developing technologies that can efficiently utilize available resources while minimizing pollution.

One of the central challenges in addressing the relationship between urbanization and environmental issues is that economic development exacerbates many environmental problems (such as solid waste and vehicular pollution).

This is because per capita waste generation increases with rising per capita income. Additionally, "the ecological footprint of cities has expanded significantly in recent decades with rising incomes and falling transportation costs in many countries. Consumers and industries in cities have increasingly relied on the carrying capacity of rural areas. This has led to a decoupling of the environmental impacts of a city's resource needs from the city itself to the extent that its inhabitants and businesses are oblivious to the environmental consequences of their actions." There is an ongoing debate about the relationship between economic growth and the environment. Some argue that as the economy grows, people will consume more and therefore waste and pollute more. Others argue that "the richer, the cleaner," which occurs only when a society's standard of living exceeds a certain threshold. At a certain level of wealth, a society can afford technologies that reduce emissions and clean up pollution. Furthermore, in developing countries, people are desperately trying to improve their quality of life. Cities can provide their inhabitants with healthy, safe, and stimulating living environments without placing unsustainable demands on natural resources and ecosystems. A successful city, in this sense, meets multiple objectives, including providing healthy living and working environments for its residents, supplying water and sanitation services, collecting solid waste, providing sanitation, paved roads, pedestrian walkways, and other essential infrastructure; and ensuring a sustainable ecological relationship between the demands of consumers and businesses, and the resources and waste disposal units and ecosystems on which they depend.

The core idea underlying the 21st-century agenda is sustainable development. The concept of sustainable development is multifaceted and has various interpretations. Some view it as an ethical vision that aligns with the interests of the new world order, while others see it as an alternative development model to the industrial capitalist model or perhaps a way to rectify the mistakes and shortcomings of this model in its relationship with the environment. The 1992 Rio Earth Summit report, which was entirely dedicated to sustainable development, popularized the concept. The report identified twenty widely used definitions, categorized into four groups: economic, environmental, social and human, and technological and administrative. Since then, new dimensions have emerged related to the technologies people rely on in their development efforts, such as in industry and agriculture, and the economic approaches used to calculate costs and benefits²⁵.

1. Economic Dimensions:

Sustainable development necessitates a rationalization of economic approaches. Foremost among these is the concept of "environmental accounting for natural resources." Traditionally, the value of natural resources extracted from oil fields, gas reserves, coal mines, and mineral deposits has not been included in cost calculations. Similarly, the value of harvested fish stocks has not been included in the value of fish stocks, nor has the value of harvested agricultural produce been included in the value of the decline in soil fertility. In many cases, irrigation water is not assigned a monetary value in agricultural calculations. In these and other cases, economic calculations lack essential elements. Additionally, certain aspects of accounting need adjustment, such as calculating agricultural output (yield) per unit of water and industrial output per unit of energy. Economic instruments such as taxes and financial incentives should be employed to maximize production efficiency and serve the goals of sustainable development.

2. Per Capita Consumption of Natural Resources:

For industrialized countries in the Global North, sustainable development means implementing deep and continuous reductions in the consumption of energy and natural resources²⁶, making fundamental changes to prevailing lifestyles, and abandoning the notion of exporting their industrial development model globally. For developing countries, sustainable development means utilizing resources to improve the living standards of the poorest populations in the Global South.

Regarding the economic dimensions of sustainable development, it is evident that, on average, citizens of industrialized countries consume significantly more natural resources per capita than those in developing countries. For example, energy consumption from oil, gas, and coal in the United States is 33 times higher than in India, and in OECD countries, it is on average ten times higher than in developing countries combined.

3. Stopping the Waste of Natural Resources:

For wealthy countries, sustainable development entails making continuous reductions in wasteful consumption of energy and natural resources through improved efficiency and radical lifestyle changes. In this process, it is essential to ensure that environmental pressures are not exported to developing countries. Sustainable development also means changing consumption patterns that¹ threaten biodiversity in other countries, such as the consumption of endangered animal products in developed countries²⁷.

Fifthly, The Role of Economic Sanctions in Environmental Protection

Since the Rio Summit, the application of economic instruments at the international level has become a new trend in international environmental protection strategies. Two main approaches have emerged:

The use of trade policy instruments: Within the framework of multilateral environmental agreements, there has been a tendency to use trade policy instruments such as bans or partial bans on trade in products derived from endangered species, penalties or restrictions on the international transport of polluting or hazardous products, and the requirement for exporting countries to inform importing countries about the ecological and harmful properties of traded products.

The use of other economic instruments: Some multilateral environmental agreements propose instruments to encourage improvements in international environmental externalities. In this regard, two proposals have been put forward: the first favors environmental taxes as a means of combating global warming, an approach supported by the European Union during the preparatory discussions for the Kyoto Protocol. The second proposal, advocated by the United States, involves creating a genuine market for environmental assets. While the United States proposal was ultimately adopted at the Kyoto meeting, the European Union has continued to advocate for environmental taxes as the best contemporary means of environmental protection. This approach has become the preferred method at both the national and international levels. Almost all European Union member states have adopted this approach, and many Arab countries, such as Algeria, Tunisia, Morocco, Egypt, Syria, and the Gulf states, have enacted environmental taxation laws. Environmental taxes are now considered the most important tool in multilateral environmental agreements. In this context, bilateral agreements between European and Arab countries, particularly those bordering the Mediterranean and Red Seas, could be established to protect the shared marine environment, and the imposition of environmental taxes would be a crucial step in this transition²⁸.

Finally, it can be said that despite the quantitative and qualitative growth of international environmental law, it still faces difficulties in implementation. It often takes the form of non-binding recommendations for states. The current trend of sustainable development, with its methods and impacts, is significantly affecting the environment. The damages inflicted on the environment in various ways and through various means demonstrate that while international conventions and national legislations provide a theoretical framework, the reality is quite different. Is this due to the absence of specialized and effective supervisory bodies, a lack of deterrent powers in terms of penalties and punishments for violators, or a culture dominated by a materialistic principle that neglects humanitarian principles?

A clear example of this is the practices of the Israeli occupation against the Palestinian people, as a component of the environment, and against the Palestinian environment through destruction, demolition, deforestation, and the use of chemical weapons that destroy both living and non-living

organisms. By doing so, it challenges all international laws related to environmental protection and human rights.

Study Results:

- The right to a healthy environment is guaranteed to all peoples around the world, as affirmed by most international and national texts and legislation.
- Sustainable development in the current era is rapidly accelerating in various fields, but some environmental violations within the framework of its practices may have a completely negative impact.
- Many international conferences and meetings have been held to preserve the environment and protect it through agricultural, industrial, and commercial development, especially in developed countries.
- Many international agreements have been concluded, and most countries have joined them in the context of environmental protection within the framework of sustainable development.
- Amidst the experiments, interactions, and pollutants emanating from various activities and behaviors, the environment has become significantly affected, leading to various global phenomena such as global warming, El Niño, floods, and epidemics.

Suggestions :

- The need to rationalize the natural use of existing resources and to manufacture them in a way that is completely environmentally friendly.
- Subjecting chemical and nuclear experiments to international control and monitoring by international bodies.
- Raising awareness and disseminating information through all available means about the environmental damage caused by industries, various emissions, chemical liquids, pesticides, manufactured fertilizers, and consumer products.
- Stimulating and encouraging technological development within the framework of sustainable development through means that preserve environmental safety.

¹ Lisan al-‘Arab by Ibn Manẓur, entry "bu'a," pp. 38-39.

² Asas al-Balagha by al-Zamakhsharī, entry "bu'a," p. 33.

³ Al-Qāmūs al-Muḥit by al-Firuzabādī, entry "bā'," vol. 1, p. 8.

⁴ Al-Ṣiḥāḥ by al-Jawhari, entry "bu'a."

⁵ Al-Mu'jam al-Wasit, vol. 1, p. 75, entry "bā'."

⁶ Al-Munjid fi al-Lugha wa al-I'lam, entry "bu'a."

⁷ Abdul Aziz, O. (n.d.). The Nature of the Environment. Retrieved from knol.google.com/k/judge-dr-osama/albdelaziz

⁸ World Commission on Environment and Development (WCED). (1987). Our Common Future. Oxford: Oxford University Press.

⁹ see the same website

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¹⁴ Al-Awadhi, S. A. (1994). Environment and sustainable development. Kuwait: Kuwait Environment Protection Society, p. 7.

¹⁵ Al-Faki, M. A. Q. (n.d.). The pillars of sustainable development and environmental protection in the Prophetic Sunnah. Third International Scientific Conference on the Noble Hadith, pp. 3-4.

¹⁶ Badran, A. H. (n.d.). Environmental issues series, book no. 44. Kuwait Environment Protection Society, Kuwait, pp. 9-10.

Fiana, M. F. (1994). Continuous development: A reading in population, consumption, and environment. Cairo: The Egyptian Society for Publishing and Knowledge.

¹⁷ -ibid. Biodiversity refers to all types of plants and animals, microorganisms, ecosystems, and the mechanism by which these species operate. This diversity can be divided into three levels: genetic diversity, species diversity, and ecosystem diversity. Genetic diversity is the sum of genetic information contained in the genes of plants and animals. See: Biodiversity, Dr. Abdul Hakim Badran, Environmental Issues Series, Book No. 44, Kuwait Society for the Protection of the Environment, Kuwait, pp. 9: 10.

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¹⁸ Giddens, A. Away from the left and right, translated by: Shawqi Jalal, National Council for Culture, Arts and Letters, Kuwait, The World of Knowledge Series, Book No. 286, page 269.

¹⁹ Al-Fiqi, M.A, Pillars of Sustainable Development and Environmental Protection in the Sunnah of the Prophet, previous reference, pp. 5-6.

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²⁰Al-Niklawi, A. (1999). Methods of protecting the Arab environment from pollution: A comprehensive human approach (1st ed., pp. 137-138). Naif Arab Academy for Security Sciences, Riyadh.

²¹ Al-Samlali, A. M. (n.d.). A concise guide to environmental law (pp. 29-30).

²² Al-Samlali, A. M. (n.d.). A concise guide to environmental law (pp. 37-38).

²³ Meadows, D., et al. (1972). The limits to growth: A report to the Club of Rome's Project on the Predicament of Mankind. New York.

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²⁵ Al-Maghribi, M. A. (n.d.). Environment and sustainable development. Retrieved from <http://www.hrdiscussion.com/hr10618.html>

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