

The necessity of combating plastic pollution

(Between reality and aspiration).

ضرورة مكافحة التلوث البلاستيكي بين الواقع والمأمول



Dr. RAHMOUN Chettouh ¹, Dr. ABDELOUAHAB Mohammed ²

¹ Djilali Bounaama Khemis Miliana University,

r.chettouh@univ-dbk.m.dz

مخبر نظام الحالة المدنية

² Djilali Bounaama Khemis Miliana University,

abdelouahab.mohamed@univ-dbk.m.dz,

مخبر نظام الحالة المدنية



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Abstract:

This research paper aims to shed light on international efforts to combat plastic pollution, which have yet to yield a binding legal text specifically addressing this phenomenon's danger to humans and the environment. Meanwhile, the United Nations seeks, through various initiatives, to raise awareness of its severity and encourage the international community to assume responsibility and take necessary steps and measures to create a comprehensive legal framework. Within the national legal framework, it can be said that the Algerian legal system has not effectively addressed this issue with a legal approach commensurate with the magnitude and seriousness of this phenomenon, in the absence of independent legal, protective, and deterrent texts.

Keywords:: Plastic pollution; international environmental law, National law, United Nations security.

ملخص:

تهدف هذه الورقة البحثية الى تسليط الضوء على الجهود الدولية في مكافحة التلوث البلاستيكي التي لم تثمر لحد الآن نص قانوني ملزم خاص بمكافحة هذه الظاهرة رغم خطورتها على الإنسان والبيئة، في مقابل ذلك تسعى الأمم المتحدة من خلال مجموعة من المبادرات الى التوعية بخطورتها وتحفيز المجتمع الدولي على تحمل المسؤولية واتخاذ الخطوات والاجراءات اللازمة من أجل إيجاد اطار قانوني اتفاقي، أما في إطار القانون الوطني يمكن القول أن المنظومة القانونية الجزائرية لم تعالج هذه المشكلة معالجة قانونية فعالة تتماشى مع حجم وخطورة هذه الظاهرة في ظل غياب نصوص قانونية وقائية وردعية قائمة ومستقلة بذاتها.

كلمات مفتاحية: التلوث البلاستيكي، القانون الدولي البيئي، القانون الوطني، الأمم

المتحدة .

1- Corresponding author Dr. ABDELOUAHAB Mohammed, abdelouahab.mohamed@univ-dbkm.dz

INTRODUCTION

Plastic pollution is among the greatest threats facing humanity and the environment in various parts of the world, due to its significant repercussions in various aspects. Plastic pollution is considered one of the major environmental challenges of our current era, given its serious effects on the environment, land degradation, biodiversity, safety, ecological balance, marine life, as well as human health and marginalized communities in particular. To illustrate this further, according to a report issued by the United Nations, it is estimated that 85% of marine debris is composed of plastic. The same report warns that by 2040, the amount of plastic waste flowing into the ocean will nearly triple, with 23 to 37 million tons of plastic waste being added to the ocean each year, equivalent to 50 kilograms of plastic waste per meter of coastline worldwide.¹

The matter that has prompted the international community and the United Nations to raise alarm bells and redouble international efforts to protect the environment from pollutants and plastic pollution, and to mobilize international efforts aimed at combating this threat, which has recently posed a threat to international environmental security. On one hand, many countries have been and continue to review and amend their domestic laws and enact new legislation to mitigate the risks of plastic and plastic materials on human health and the environment.

From here arises this research contribution aimed at attempting to clarify the most important legal frameworks and legal systems for protecting the environment from plastic pollution and combating it in both international and national law. This stems from the question: What is the legal approach to combating plastic pollution and protecting the environment in international and national law, and to what extent does it contribute to providing the necessary legal frameworks, mechanisms, and means for protecting the environment practically and effectively? This will be addressed through two axes: the first titled "Combating Plastic Pollution in International Law" and the second under the title "Combating Plastic Pollution in National Law."

1.Axis One: Combating Plastic Pollution in International Law (International Environmental Law)

Since the 1970s, the international community has concluded numerous agreements, treaties, and protocols aimed at mobilizing

international and regional efforts to address general or sectoral issues related to the environment and its protection. The number of these legal instruments has exceeded 200 in the field of international environmental law.² These instruments represent the primary source of international law and reflect the collective and legally binding will of all states,³ at least theoretically. Among these agreements relevant to our discussion, we can mention, for example:

1. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal for the year 1989: This convention consists of 29 articles and 7 annexes. As a result of this convention, the United Nations adopted a set of legal principles for environmental protection, including the principle of "polluter pays," the principle of due diligence and prevention, and the principle of proximity.⁴
2. United Nations Convention on the Law of the Sea for the year 1982: This convention is considered the largest and most significant international treaty of the twentieth century. Algeria joined it on October 7, 1996.⁵
3. Vienna Convention for the Protection of the Ozone Layer for the year 1985.
4. Convention on Biological Diversity Framework for the year 1992.

As for combating plastic pollution, international efforts are still

underway to draft an international treaty to combat plastic pollution since November, aiming to reach a final text by late 2024. This decision was adopted by 175 countries in Paris during a ministerial meeting to support negotiations on combating plastic pollution⁶, attended by non-governmental organizations as well as representatives from the plastic industry. A new round of negotiations opened in Paris for five days aimed at reaching an agreement to combat plastic pollution.⁷ Debate continues over the treaty, with, for example, the United States calling for limiting major principles and leaving freedom for countries to find solutions that suit them.⁸

This raises anew the issue of the application of environmental agreements, which face a myriad of external dilemmas related to their susceptibility to international political mood and political and economic considerations rather than environmental or legal ones.⁹ The lack of political will and genuine commitment by a significant number of countries is seen as the most significant real challenge facing environmental protection in general. On the other hand, environmental agreements suffer from objective challenges related to their inadequacy in addressing only a specific area or sector (such as environmental pollution) or having a limited regional scope (such as their application being related to some countries connected by geographical proximity), and some of them lack clear commitments and effective mechanisms for settling environmental disputes. Additionally, there is reluctance to join or ratify them.¹⁰

The United Nations has also undertaken a series of efforts,

including the latest being the report issued by the United Nations Environment Programme and the non-governmental organization Azul for Environmental Justice, which follows the decision of the United Nations Environment Assembly 2/11 for the United Nations Environment Program to further study the environmental, health, and social impacts of plastic. The report illustrates how plastic waste undermines the achievement of Sustainable Development Goals, particularly Goal 1 on poverty eradication, Goal 2 on hunger eradication, Goal 14 on the protection of marine ecosystems, and Goal 16 on ensuring access to justice for all and building effective, accountable, and inclusive institutions at all levels.¹¹

The Clean Seas Campaign, launched by the United Nations Environment Program in 2017, represents another effort. The campaign aims to reduce the use of unnecessary plastics, including single-use plastics, and to gradually phase out intentionally added micro-plastics, which cause various issues.¹²

The obstacle that limits the effectiveness of United Nations resolutions and initiatives is that they are often recommendations rather than legally binding mandates.

The United Nations proposes a set of recommendations to combat plastic pollution, including:

1. Encouraging governments to enact legislative and policy measures to reduce the use of unnecessary plastic and promote environmentally friendly alternatives.
2. Enhancing recycling and reuse of plastics to reduce

- plastic waste.
3. Raising public awareness about the environmental and public health impacts of plastic pollution and promoting behavior change related to plastics.
 4. Supporting research and innovation in developing alternative plastic solutions and advanced technologies to reduce its use and environmental impact.
 5. Promoting international and regional cooperation to address common challenges related to plastic pollution and exchange knowledge and experiences.
 6. Supporting efforts to clean beaches and marine areas from plastic waste.
 7. Encouraging industries and companies to take measures to reduce plastic use and improve plastic waste management.

These recommendations aim to enhance global efforts to address plastic pollution and protect the environment and human health.

2.Axis Two: Combating Plastic Pollution in National Law

The United Nations considers legislation to be vital in addressing the crisis of plastic pollution. While every sector must be involved in finding solutions, governments need to lead the change. In this context, it is worth mentioning that the Algerian constitutional founder enshrined the right to a healthy environment in the 1996 amended constitution in 2020 under Article 64, which stipulates: "Every citizen has the right to a healthy environment within the

framework of sustainable development."

The Algerian legislature also emphasizes the importance of the environment and its protection in general through a series of legal texts. Among these, we can mention Law No. 03-10 concerning the protection of the environment within the framework of sustainable development, which is considered the general legal reference for environmental protection in Algeria. This law stipulates a set of measures and general principles for combating pollution and protecting the environment overall. Additionally, Law No. 01-20 regarding the preparation and sustainable development of regions outlines national policies and procedures for the preparation and development of the national territory. Furthermore, Law No. 01-19 concerning waste management, monitoring, and removal ensures environmental protection through the proper management of waste.

Among the specific texts that explicitly addressed the issue of combating plastic pollution, albeit in a limited manner, is the Joint Ministerial Decision dated 12 Sha'ban 1435 corresponding to June 10, 2014. This decision approved the technical regulations that specify the technical specifications for plastic bags with handles, which included a set of standards compliant with international standards. Additionally, it exclusively designated white color for these bags, in addition to other measures aimed at reducing plastic pollution. Furthermore, Executive Decree No. 02-372 regarding packaging waste outlined a set of measures aimed at limiting or reducing plastic pollution through the valorization and recycling of packaging waste.

3.Conclusion:

In conclusion, addressing plastic pollution is a pressing global issue that requires comprehensive efforts at both the international and national levels. The United Nations emphasizes the importance of legislative measures in combating this crisis, alongside the active involvement of governments and various sectors of society. In Algeria, the legal framework concerning environmental protection, including measures specifically targeting plastic pollution, underscores the commitment to safeguarding the environment and promoting sustainable development. However, despite these efforts, challenges remain in effectively implementing and enforcing regulations to mitigate plastic pollution. It is imperative for stakeholders to continue working together to adopt innovative solutions, raise public awareness, and promote sustainable practices to protect our planet for future generations.

Marginalization

New Report: Plastic Pollution Unjustly Impacts Vulnerable Communities ¹
Environmentally Plastic pollution inflicts environmental injustice upon
vulnerable communities, according to a recent report.

<https://www.unep.org/ar/alakhbar-walqss/alnshrat-alshfyt/tqrry-jdyd-altlwth-alblastyky-ywq-zlmaan-byyyanaan-ly-almjmat>

² - هاشم بشير ، حماية البيئة في ضوء أحكام القانون الدولي الإنساني، المركز القومي
للإصدارات القانونية، مصر ، الطبعة 1، 2011، ص 19.

³ - عيسى علي ومبطوش الحاج، حماية البيئة الطبيعية ضمن مبادئ القانون الدولي الإنساني، مجلة الاجتهاد للدراسات القانونية والاقتصادية، المجلد 09، العدد 02، 2020، ص 259.

⁴ - دينا ابراهيم أمين عبدالمجيد، الحماية التشريعية للبيئة من النفايات البلاستيكية، ص 472 وما بعدها.

⁵ - حليلة سعادي، حماية البيئة في إطار الاتفاقيات الدولية (الجزائر نموذجاً)، مذكرة ماستر في العلوم القانونية، قسم الحقوق، كلية الحقوق والعلوم السياسية، جامعة العربي بن مهيدي أم لبواقي، 2018-2019، ص 54.

⁶ - دعوة أممية لوضع حدّ لـ"كارثة" التلوّث البلاستيكي، ارونيز.

⁷ <https://www.france24.com/ar>

⁸ <https://www.alaraby.co.uk/society/>

⁹ - زايد محمد، دور الاتفاقيات الدولية في تحديد المسؤولية عن الأضرار البيئية، مجلة الاجتهاد للدراسات القانونية والاقتصادية، المجلد 09، العدد 02، 2020، ص 291 وما بعدها.

¹⁰ - هاشم بشير، مرجع سابق، ص 29 و30.

¹¹ <https://www.unep.org/ar/alakhbar-walqss/alnshrat-alshfyt/tqrry-jdyd-altlwth-alblastyky-ywq-zlmaan-byyyanaan-ly-almjtm>.

¹² <https://www.unep.org/ar/alakhbar-walqss/alnshrat-alshfyt/tqrry-sadr-n-alam-almthdt-hwl-altlwth-alblastyky-yhdhr-mn-tbny>.