

The Development of Algerian Environmental Legislation in Comparison to International Environmental Legislation

تطور التشريع البيئي الجزائري بالمقارنة مع التشريع البيئي الدولي

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Abstract:

In light of the increasing international concern for the environment due to the escalating environmental issues and challenges in the second half of the twentieth century, this concern has arrived rather late. Accordingly, this has reflected a negative image in the legal and practical treatment of these issues. This is also evident in national legislations that are striving to keep pace with the current developments related to the environment and its protection. As for the Algerian environmental legislation, despite the considerable efforts made by the country to protect its environment through successive constitutions and environmental laws, it still requires much more effort compared to international environmental legislation. This is particularly relevant in light of the evolution and modernization of this field, all of which are occurring amid the exacerbation of various environmental problems.

Keywords: International environmental legislation, Algerian environmental legislation, comparison, development.

ملخص:

بالنظر إلى الاهتمام الدولي بشأن البيئة جراء المشكلات و القضايا البيئية المتفاقمة في النصف الثاني من القرن العشرين ، إلا أنه جاء متأخراً وهو ما يعكس الصورة السلبية في المعالجة القانونية والعملية لتلك المشكلات والقضايا ، وهو أيضاً ما يعكس نفسه في التشريعات الوطنية التي تُحاول جاهدة مواكبة التطورات الراهنة بخصوص كل ما يتعلق بالبيئة وحمايتها. وهو نفس الحال في التشريع البيئي الجزائري ، رغم أنه حاول الكثير من الجهود في مجال البيئة وحمايتها من خلال الدساتير المتعاقبة والقوانين الخاصة بالبيئة ، إلا أنه بالمقارنة مع التشريع البيئي الدولي لا يزال يحتاج إلى الكثير من الجهود ، خاصة مع تطور وعصرنة المجال وكل ذلك في ظل تفاقم المشاكل البيئية المتعددة والمتنوعة .

الكلمات المفتاحية: التشريع البيئي الدولي، التشريع البيئي الجزائري، المقارنة، التطور

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Introduction

The topic of the environment stands as one of the most pressing issues being debated both internationally and domestically. This is particularly relevant as the world grapples with serious environmental problems and issues stemming from irrational activities, excessive consumption of natural resources, and disruptions to ecological balance. These factors have resulted in the pollution of water, air, and soil, desertification, the transformation of freshwater into saline areas, disruptions in biodiversity, climate change, and global warming, among other environmental challenges.

All these problems, and more, have prompted the international community to convene conferences, including the Stockholm Conference of 1972 and the Earth Summit in Rio de Janeiro in June 1992.

The latter was convened by the United Nations and attended by over twenty thousand people from 187 countries. These conferences and gatherings resulted in international legal commitments to environmental protection. Similarly, the Algerian legislative system has pursued a similar path in the field of the environment, through enacting numerous legislations and laws to safeguard the environment. This indicates the significance of the environment, which has become not only a human right and a societal value, but also underscores the severity of environmental issues on humanity and future generations.

It's noteworthy that Algeria has pursued various avenues to protect the environment, both institutionally and legislatively. This research paper sheds light on the Algerian legislative aspects of the environment and compares them with international environmental legislation. The aim is to address the following issue: To what extent can Algerian environmental legislation be considered to have evolved compared to international environmental legislation? Furthermore, has it been sufficient to achieve comprehensive protection for the environment in all its aspects and forms?

Section I: International Efforts in terms of Environmental Protection.

Numerous international agreements stipulate the protection of the environment, based on several principles, including environmental conservation, the responsibility of states to safeguard it, non-interference with its components, and the assurance of its integrity. These agreements encompass various environmental elements: terrestrial, marine, and aerial, all of which have garnered international attention.

A) Protecting Terrestrial Environment from Pollution

The protection of the terrestrial environment has been a focal point in many international agreements, including:

1. The African Convention on Nature and Natural Resources

This convention was established under the auspices of the Organization of African Unity in Algeria in 1968. Its purpose is to encourage individual and collective efforts to conserve and develop soil, water, plant, and animal resources for the well-being of present and future generations in all economic, scientific, and cultural fields.¹

The parties commit to taking the necessary measures for the conservation and development of soil, plant, and animal resources, setting controls to prevent pollution and safeguard these resources. This includes protecting plants, ensuring responsible use and management of forests, monitoring controlled burning and overgrazing, safeguarding animals, responsibly managing animal populations, regulating hunting and trapping, and providing special protection for endangered plants and animals. Hunting, trapping, or collecting is prohibited without specific authorization from the relevant authority. Additionally, the maintenance of natural barriers and the creation of new barriers are required to protect environmental systems²

2. Convention on the Protection of Wetlands of International Importance

This convention was concluded in 1971 in the Iranian city of Ramsar. Its objective is to protect wetlands as vital habitats for terrestrial and marine organisms, particularly waterbirds. The contracting parties commit to designating wetlands regionally and including them in the list of wetlands of international importance. They also pledge to preserve migratory waterbird populations, manage their habitats, and ensure sustainable utilization. Additionally, the parties are obligated to establish natural barriers for wetlands and collaborate in exchanging information and training personnel for the purpose of wetland management.

3. Convention on the Protection of the World Cultural and Natural Heritage

This convention was held in Paris in 1972 and came into effect in 1975. Its objective is to safeguard natural and cultural heritage of outstanding universal value. This includes natural phenomena resulting from natural processes, ecosystems, and habitats that have exceptional aesthetic or scientific significance, geological formations, and geographic areas that serve as habitats for endangered species of fauna and flora of global importance. It also encompasses areas and sites of exceptional global value, whether for scientific or aesthetic reasons.

To ensure the protection of this heritage, UNESCO has established a governmental body known as the World Heritage Committee.³ This committee is responsible for identifying and safeguarding the world heritage. Additionally, the World Heritage Fund was established to receive contributions according to the financial regulations of UNESCO. The fund's resources include mandatory and voluntary contributions provided by the parties to the convention.⁴

4. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989

This convention, concluded in the Swiss city of Basel in 1989, is one of the key international treaties aimed at protecting the environment from pollution caused by hazardous wastes. It represents the first international agreement in the field of regulating the transboundary movement of hazardous wastes. Moreover, it is considered a multi-party international treaty because it was established within the framework of the United Nations.⁵

5. The 1994 Convention to Combat Desertification

This convention is grounded in the agenda of the 21st century and was signed in Paris on October 15, 1994. It came into force in December 1996 and is the only legally binding instrument designed to address the issue of desertification.⁶

B) Agreements on the Protection of Marine Environment.

Among the most important international agreements that have been concluded to protect the marine environment from pollution, we mention:

1. International Convention for the Prevention of Pollution from Ships (MARPOL), 1954

This convention was established in London in 1954 and came into effect in the same year. It was subsequently amended in 1962, 1969, and 1971. The purpose of this convention and its amendments is to prevent marine pollution resulting from deliberate oil discharges from ships, particularly in specific areas. The convention applies to all seagoing ships registered in any party state to the convention, as well as unregistered ships holding the nationality of one of the member states. Exemptions include oil tankers carrying a load of less than 1,500 tons, other ships carrying around 500 tons, and auxiliary ships.⁷

2. Geneva Convention on the High Seas, 1958

Since the mid-1950s, international agreements have resulted in the promulgation of several regulations aimed at limiting various forms of marine pollution. These agreements have

simultaneously maintained the traditional principle related to navigational freedom. Among these agreements is the London Convention of 1954 on the prevention of marine pollution by oil.⁸

3. International Convention on the Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969

This convention was established in Brussels in 1969. Its aim is to empower countries to take necessary measures on the high seas in response to maritime disasters that result in oil pollution. The objective is to prevent or mitigate the severity of such pollution and to eliminate damage threatening their coastlines or coastal interests.⁹

4. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971

This convention seeks to utilize the fund to cover costs associated with the cleanup and removal of petroleum pollution, as well as to provide compensation. Compensation is granted to individuals who suffer damage due to maritime oil pollution and are unable to obtain full and adequate compensation under the provisions of the 1969 Brussels Civil Liability Convention.¹⁰

5. Oslo Convention, for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, 1972

This convention stipulates that party states must prevent the dumping of harmful substances into the sea and take measures to prevent marine pollution through dumping from ships and aircraft. Additionally, the party states are required to establish supplementary programs for scientific and technical research as well as the exchange of information to monitor the distribution and effects of pollutants in the region covered by the convention.¹¹

6. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973

The provisions of this convention apply to all types of marine pollution, whether from oil products or other hazardous materials, and encompass all types of ships, including tankers and others. The party states commit to subjecting every oil tanker with a tonnage exceeding 1,500 tons and every ship weighing 400 tons or more to special inspections prior to permitting the ship owner to operate the ship or before issuing an international certificate for marine pollution.¹²

7. Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, 1976

This convention aims to achieve international cooperation and establish a comprehensive policy to improve the marine environment and protect the Mediterranean Sea against pollution.

According to the provisions of this convention, the party states commit to taking necessary measures to prevent or reduce pollution.

8. United Nations Convention on the Law of the Sea, held in Montego Bay in 1982

This convention was concluded during the eleventh session of the United Nations Conference on the Law of the Sea in 1982. According to its provisions, individual or collective countries commit to protecting the marine environment. They undertake necessary measures to prevent, reduce, and control marine environmental pollution from any source. To achieve this goal, they are required to employ the best available scientific methods and to minimize the discharge of toxic or harmful substances into the marine environment—whether from sinking, land-based sources, or the atmosphere. Additionally, countries are obligated to take necessary measures to protect ecosystems and conserve marine life, particularly species that are depleted or threatened with extinction.¹³

C) International Agreements on the Protection of the Air Environment from Pollution

Among the most important agreements in the field of environmental protection are the following¹⁴:

1. The International Convention on the Protection of Workers from Ionizing Radiation, 1960

This convention was held in Geneva, Switzerland in 1960. Its aim is to safeguard the health and safety of workers from the hazards of ionizing radiation. The contracting parties commit to implementing the provisions of this convention through appropriate laws, regulatory decisions, or any other suitable means.

2. The Convention on Civil Liability for Nuclear Energy Activities, 1960, Paris, and its Supplementary Convention, 1963, Brussels

These conventions were convened by the Organization for Economic Cooperation and Development (OECD). They aim to ensure fair compensation for individuals who suffer harm due to nuclear accidents, while also guaranteeing that the use of nuclear energy for peaceful purposes is not hindered. Additionally, they establish a unified framework of basic rules regarding liability for damages among the contracting parties in the conventions.

3. The Vienna Convention on Civil Liability for Nuclear Damage Resulting from the Use of Nuclear Energy for Peaceful Purposes, 1963

The International Atomic Energy Agency supervised the conclusion of this convention in 1963, which came into force in 1977. The objective of this convention is to define the liability for the damages resulting from the use of nuclear energy for peaceful purposes.

4. The International Convention on Occupational Hazards in the Working Environment Arising from Noise and Vibrations, 1977, Geneva

The Geneva Conference, convened in Switzerland in 1977, endorsed this convention. It aims to protect workers from occupational hazards in the work environment resulting from air pollution, noise, or vibrations.

5. The Convention on Long-Range Transboundary Air Pollution, 1979, Geneva

This convention seeks to safeguard human beings and the surrounding environment from air pollution. The contracting parties are obligated to take necessary measures to limit and progressively mitigate air pollution, particularly pollution that crosses national borders and affects remote areas far from the pollution source.

6. The 1980 International Hague Summit on Earth's Atmospheric Protection

This convention was held in The Hague, Netherlands in 1980 and was attended by 24 heads of state and government. Its aim is to safeguard the Earth's atmosphere from pollutants originating from various sources.

7. The 1985 Vienna Convention on the Protection of the Ozone Layer, the 1987 Montreal Protocol, and its Amendments¹⁵

The 1985 Vienna Convention imposes significant obligations on its parties for the maintenance and protection of the ozone layer, with the goal of preventing its depletion and degradation. These obligations are founded in the framework of preventive cooperation. As for the 1987 Montreal Protocol and its amendments on ozone-depleting substances, its preamble acknowledges that emissions of such substances, specifically chlorofluorocarbons, on a global scale, could lead to substantial depletion or alteration of the ozone layer, potentially causing harmful effects on human health and the global environment.

8. The 1997 Kyoto Protocol in Japan for Reducing Emissions of Environmentally Harmful Gases

The protocol, signed in 1997 in Kyoto, Japan, mandates its signatories to achieve a collective reduction of environmentally harmful gas emissions by more than 5%. This reduction aims to keep climate changes within manageable and adaptable limits. However, controlling emissions that cause temperature increase appears to require decisive political will, particularly in a time when fossil

fuels remain a major global energy source and wealthy nations play a significant role in achieving economic development in producer countries.¹⁶

D) Efforts of Non-Governmental Organizations in the Field of Environmental Protection

Marcel Merle defines them as "any group, association, or movement composed permanently of individuals from different countries pursuing non-profit and profit-making goals." Professor Mohamed Boussultan characterizes them as "private organizations, assemblies, or unions within the framework of national law, headquartered in one of the countries and subject to the laws of that host country, but in practice having regional or global extensions due to the tasks they intend to undertake. Extensions may be established in other regions or countries." ¹⁷Dr. Omar Saad Allah defines international non-governmental organizations as "voluntary non-profit groups organized by citizens on a local, national, or international basis. Their work revolves around specific tasks and is led by individuals with shared interests. They perform a variety of humanitarian services and functions, including informing governments of citizens' concerns, monitoring policies and encouraging political participation at the community level. Furthermore, they provide analysis and expertise, act as early warning mechanisms, and assist in monitoring and implementing international agreements." ¹⁸

The Economic and Social Council (ECOSOC) defines international non-governmental organizations (NGOs) as "any international organization established by agreement between governments and considered non-governmental." Despite that this definition offered a general framework, has been criticized for its focus on the relationship between NGOs and governments, particularly regarding member selection¹⁹

There's no doubt that environmental protection is everyone's responsibility. Environmental degradation is a social issue, not merely a technical one. We all need to get involved and organize ourselves to ensure scientific progress does not harm the environment.

With the rapid growth of NGOs and associations internationally and domestically, there is a growing movement to support and strengthen their contribution to sustainable development. NGOs play a vital role in environmental protection, as evidenced by their continuous growth. At the 1972 Stockholm Conference, there were approximately about 2,500 environmental NGOs, with only three from developing countries. By the 1992 Rio Conference, over 10,000 NGOs participated; including 2,000 from developing nations. Below is a summary of some prominent international NGOs actively engaged in environmental protection efforts²⁰.

1. International Union for the Conservation of Nature (IUCN)

Established in 1948, the IUCN comprises over 82 countries, 111 government agencies, more than 80 NGOs, and around 1000 experts from 181 countries. Also known as the World Conservation Union, it has a unique structure that includes both central and decentralized bodies. This IUCN is credited with pioneering the use of the term "sustainable development" in its 1980 World Conservation Strategy, which later served as the foundation for the 1987 Brundtland Commission Report and the 1992 Rio Declaration. The organization's activities in nature conservation are grounded in the fundamental principle of sustainable living ethics.

2. World Wildlife Fund (WWF)

Founded in 1961 in Zurich, Switzerland, the WWF organized its first gathering of researchers focused on protecting endangered bird species. Initially known as the World Wildlife Fund, the organization later broadened its focus to include the protection and maintenance of ecosystems, leading to a name change to the World-Wide Fund for Nature. WWF aims to conserve the natural environment by raising public awareness of various environmental threats, securing moral and financial support for animal conservation, and promoting a system of nature reserves.

3. Greenpeace

Greenpeace works to protect the environment from pollution and mobilize global public opinion to exert pressure on governments and international organizations to reduce environmental pollution. The organization particularly focuses on the areas of nuclear activities, the use of hazardous and toxic products, and outer space. In the early 1990s, Greenpeace established a research and monitoring station in the South Pole to advise and guide countries on pollution-related activities.

NGOs play a multifaceted role in shaping environmental policies. They raise public awareness through campaigns and reports, gather and monitor information to hold authorities accountable, advocate for compliance with environmental agreements, participate in implementing sustainable development programs, and even resort to legal action to enforce environmental policies. These activities collectively influence how environmental policies are formulated and implemented. The relationship between NGOs and governments is not always characterized by cooperation; there can also be conflict. NGOs may resort to domestic courts to defend the collective interests they seek to protect, although this practice varies from country to country. Most countries, including Italy, Belgium, Sweden, and Denmark allow associations to access the courts. In France, NGOs can use administrative courts to overturn administrative decisions. They also have the ability

to hold the state or one of its agencies accountable for inaction or negligence in monitoring polluting institutions. Additionally, they have the right to bring civil actions for damages. In France, associations can also assert civil rights before criminal judges, provided they are accredited.²¹

Section II::Legal Protection of the Environment under Algerian Law

A) The Environment in Algerian Constitutions

In the 1963 constitution, some provisions related to environmental protection were included, despite Algeria being a newly independent nation. Although the issue of the environment was not explicitly mentioned in this constitution, an examination of Article 16 reveals that it enshrines the right of every individual to a decent life, which implicitly encompasses a clean environment.²²

The same pattern can be observed in the 1976 constitution. However, this constitution explicitly mentioned environmental protection through Article 151, which affirmed that the National People's Assembly is responsible for legislating in areas including regional development policy, the environment, and animal protection.

The Charter dated February 9, 1986 similarly addressed environmental issues, within the fifth chapter related to urban planning and infrastructure development. This Charter also emphasized the need to improve the living conditions, albeit within the framework of socialism, which may have implications on the environment.

After constitutional and ideological modifications across all sectors, no significant changes were observed in the aspirations of the constitutional founderz in the 1989 constitution. This constitution also delegated powers to the National People's Assembly to establish general environmental regulations and living conditions, including the protection of animal and plant resources, preservation of cultural and historical heritage, the general forest regime, rangeland management, and water management. Notably, between 1976 and 1989, the first environmental legislation was enacted in 1983, despite the absence of a specific constitutional provision for environmental protection. However, the 1989 constitution referred environmental matters to the legislative branch, thereby confirming the implicit legislative direction towards environmental protection²³. Article 122/20 of the constitution stipulated that "the National People's Assembly establishes the general rules related to the environment and living conditions." This trajectory was also followed by the 1996 constitution, which added the phrase "urban planning" to its predecessor.

Nonetheless, the constitution did not provide specific provisions dedicated to the environment as a constitutional concern and a new generation of human rights, as it did for certain rights like the

right to education and the right to strike. However, the constitution empowered the legislative authority of the parliament in the realm of legal regulations related to the environment, living conditions, and urban planning (Article 122/19).

B) The Evolution of Constitutional Protection for the Environment in Algeria

The 2016 constitutional amendment marked a pivotal moment amid popular protests in the southern regions against shale gas exploitation, driven by concerns about its environmental impact and its effects on regional water resources. The amendment enshrined the rights of future generations to a sound and balanced environment as well as the right to sustainable development. The preamble of the 2016 constitutional amendment stated:

"The Algerian people remain committed to their wealth in order to reduce social disparities, eliminate regional disparities, work towards a productive and competitive economy within the framework of sustainable development, and preserve the environment."

Article 68 of the constitution further emphasized the right to a healthy environment, affirming what was stated in the preamble: "Citizens have the right to a sound environment, and the state works to preserve the environment. The law defines the duties of natural and legal persons to protect the environment."

Upon reviewing the preamble and Article 68, it becomes evident that the constitutional legislator has associated the right to a sound environment with an emphasis on sustainable development. This is in addition to the state's commitment to protect this right and the necessity of intervention when it is violated.

Furthermore, it can be asserted that the constitutional recognition of the right to a healthy environment is contingent upon legislative embodiment. To fully grasp the status of environmental protection within the context of this right, it is essential to reference Algerian environmental laws and other related legislation

As for the new 2020 Constitution, it articulates in Article 64: "Every citizen has the right to a sound environment within the framework of sustainable development. The law defines the duties of natural and legal persons to protect the environment." Hence, the 2020 Constitution reiterates the significance of the environment, its protection, and individuals' entitlement to it within the context of sustainable development.

C) Independent Environmental Legislation within the Algerian Legislative System

The Algerian legislator did not adopt an independent legislative approach for environmental protection until after 1983. In that year, the Algerian Environmental Protection Law was enacted, influenced by international efforts, particularly after the 2002 Earth Summit. Subsequently, the Algerian legislator issued a new law in 2003 titled the Law for Environmental Protection within the Framework of Sustainable Development.

1. Law No. 83-03 dated February 5, 1983²⁴

This law constitutes a significant turning point in the field of environmental protection, as it addressed environmental issues comprehensively. The law consists of 140 articles distributed across six chapters. The first chapter outlines general provisions by establishing goals, articulating principles, and designating authorities responsible for enforcement. The second chapter focuses on the protection of nature as a national interest, regulating measures for conservation animals and plants, establishing natural reserves and national shelters, and defining legal penalties for violations. The third chapter addresses the protection of receiving environments, including penalties for violators. The fourth chapter emphasizes protection from harm resulting from the activities of classified establishments, unions, radioactive materials, chemical substances, and noise. It specifies related offenses and penalties. The fifth chapter is dedicated to impact assessments as a preventive measure, while the final chapter discusses violations and inspections.²⁵

In addition, detailed matters related to the implementation of the law were referred to other laws, such as the Endowment and Development Law No. 29-90 dated December 1, 1990, the Municipality Law No. 90-08 dated April 11, 1990, and the Provincial Law No. 90-09 dated April 11, 1990. Moreover, the regulatory laws related to specific elements or mechanisms of environmental protection have been established to achieving their goals and principles²⁶. Some of these regulatory laws include:

- Decree No. 83-457 dated June 23, 1983, establishing the National Agency for Environmental Protection, later repealed by Decree No. 95-107 establishing the Directorate General of the Environment, which was subsequently repealed by Decree No. 01-09 organizing the central administration for regional planning and the environment.
- Decree No. 83-458 dated July 23, 1983, containing the basic law for national shelters, amended and supplemented by Decree No. 98-216.
- Decree No. 83-509 dated August 20, 1983, concerning non-domesticated animal species.

- Executive Decree No. 91/177 dated May 28, 1991, specifying procedures for preparing directional plans for planning and development, amended and supplemented by Executive Decree No. 05/317 dated September 10, 2005, and Executive Decree No. 12/148 dated March 28, 2012.
- Executive Decree No. 91/178 dated May 28, 1991, specifying procedures for preparing land use plans, amended and supplemented by Executive Decree No. 05-318 dated September 10, 2005.
- Executive Decree No. 06/55 dated January 30, 2006, defining conditions and procedures for appointing qualified officers to investigate violations of legislation and regulations in the field of planning and development, conducting inspections, and establishing monitoring procedures.
- Executive Decree No. 06/198 dated May 31, 2002, regulating the organization applied to environmental protection institutions, Official Journal No. 39, 2006.
- Executive Decree No. 07/145 dated May 19, 2009, specifying the scope of application, content, and criteria for approving environmental impact studies and summaries.
- Executive Decree No. 10/01 dated January 4, 2010, related to the directional plan for water resource development and the national water plan.

2. Law No. 03-10 on Environmental Protection within the Framework of Sustainable Development

It is worth noting that the Environmental Protection Law within the Framework of Sustainable Development encompasses all the legal regulations established by the legislator to regulate all aspects related to environmental protection, whether pertaining to natural or artificial environments.

Article 2 of Law 03/10 includes a set of objectives to be achieved. Among these objectives are the promotion of sustainable national development, ensuring a healthy living environment, preventing all forms of pollution and environmental damage. This can be achieved by preserving its components and rehabilitating affected environments, promoting rational ecological utilization of natural resources, utilizing cleaner technologies, reinforcing information and raising public awareness to ensure their participation in environmental protection measures. Furthermore, Article 3 of Law 03/10 outlines the general and fundamental principles that must be respected and adhered to, including the principle of conserving biodiversity. It also establishes a principle where anyone causing environmental harm through their activities is responsible to prevent and mitigate pollution.

The Environmental Protection Law regulates a specific type of relationship regarding humans' interaction with the environment in which they live and coexist. It possesses distinctive

characteristics that set it apart from other laws due to its subject matter and nature. Some of these characteristics include:

- The law is relatively recent compared to other laws. Environmental protection laws, in general, trace back to the second half of the 20th century, with attempts to lay the legal foundations for environmental protection starting around that time. The 1972 Stockholm Conference played a significant role in establishing the basic principles of environmental protection law.
- The technical and scientific nature of the law's rules, which results from the endeavor to merge legal ideas with pure scientific facts related to the environment.
- The law is regulatory in nature, characterized by the presence of both civil and criminal penalties for violating environmental protection rules.

The international dimension of the environmental law is evident, as the majority of its regulations are based on collective or bilateral agreements adopted by states. This approach is considered appropriate not only because environmental threats are globally impactful, but also because effective environmental conservation necessitates international coordination to develop a unified international policy for establishing environmental rules and regulations.

Furthermore, adopting the broad concept of the environment is the most effective approach, taking into account several considerations, including the distinction between the terms "nature" and "environment." The concept of environment introduces new elements that were not originally part of nature and have emerged as a result of human actions.²⁷ The industrial components, of human origin, are the main cause of damaging the natural elements created by the Almighty. Therefore, these components must be included within the concept of the environment, with efforts focused on mitigating their risks.

The global approach to environmental protection considers achieving sustainable development and the necessity of integrating the environmental aspect within the framework of economic and social development. This approach highlighted the shortcomings of previous legal tools and their inability to curb environmental damage and threats. This situation was reflected in Algeria's internal environmental protection laws, prompting legislators to review their policies in this field due to ongoing environmental degradation.²⁸

Consequently, it is imperative for the present generations not to overlook the rights of future generations concerning the environment and natural resources when utilizing them. Ignoring these rights could jeopardize future development continuity. Maintaining natural resources is essential for

achieving economic and social progress, as any depletion of natural environmental resources burdens subsequent generations.²⁹

D) The Role of Local Governments and Associations in Protecting the Environment in Algeria

In Algeria, one of the legal means of environmental protection is the administrative licensing system which includes building permits as an essential tool for environmental protection. The legislator has regulated building permits through Law No. 90-29 related to urban planning and development³⁰. The law stipulates that it is necessary to obtain a building permit from the competent authority before starting a new construction project or making any modifications to an existing one. This also applies to classified establishments, where Article 19 of Law No. 03-10 related to environmental protection in the framework of sustainable development specifies the need to obtain a classified establishment permit from the Minister of Environment and the relevant minister when such a permit is stipulated in the legislation in force, or from the *Wali* (governor) or the president of the municipal people's assembly.

E) The Role of Local Governments in Environmental Protection

Referring to Law No. 12-07 related to the *Wilaya*, it is clear that the *wilaya* council plays a significant role in environmental protection as a manifestation of the administrative decentralization in the Algerian administrative organization. In this regard, Article 77 of Law No. 12-07 states that the *Wilaya* council exercises its powers within the framework of the powers granted to it by laws and regulations and deliberates on environmental protection matters.

Article 84 of Law No. 12-07 further outlines the role of the *Wilaya* Council in environmental protection, expanding and upgrading agricultural land, rural planning and equipment, and encouraging disaster prevention and natural pests. It also combats the risks of floods and droughts. According to Article 85, the *Wilaya* Council takes the initiative to contact the relevant services for the development and protection of forest lands in the field of forestation, soil protection, and rehabilitation. It also contributes, in line with the relevant services, to the prevention and control of various epidemics in the field of animal and plant health³¹.

While Law No. 12-07 related to the *Wilaya* does not explicitly outline the *Wali's* specific powers in environmental protection, it does emphasize the *Wali's* overall responsibility for maintaining public order, security, safety, and tranquility. Article 114 of the same law states that the *Wali* is responsible for ensuring these conditions and for overseeing the implementation of the *Wilaya* Council's decisions. Additionally, the *Wali* must submit a report on the implementation of

these decisions at the opening of each ordinary session of the council and must annually inform the council of the activities of non-decentralized sectors in *the Wilaya* ³².

Law No. 03-10 related to environmental protection in the framework of sustainable development further defines the *Wali*'s powers in terms of pollution prevention. The *Wali* can issue warnings to the owner of an establishment and set a deadline for taking the necessary measures to eliminate any hazards or damages caused by the establishment's activities that could lead to environmental degradation ³³.

Law No. 11-10 related to the municipality, as amended and supplemented, grants the municipality clear powers in environmental protection within its territory. Article 88 of the same law states in this regard, that the president of the municipal people's assembly, under the supervision of the *Wali*, is responsible for maintaining order, tranquility, and public cleanliness.

Article 94 further emphasizes the president's responsibility for maintaining public order, the security of people and property, and compliance with regulations and environmental protection. The president also has powers related to environmental protection under various legislative and regulatory texts, including Law No. 90-23 related to urban planning and development, particularly in the area of granting building permits.

In terms of the municipal people's assembly plays a significant role in environmental protection through its involvement in spatial planning and sustainable development. The establishment of any investment or infrastructure project within the municipality's territory or any project under the sectoral development program is subject to the prior approval of the municipal people's assembly, particularly in the area of agricultural land protection and environmental impact ³⁴. Article 123 of Law No. 11-10 states that the municipality, with the contribution of the state's technical services, shall ensure compliance with the legislation and regulations in force for the preservation of public health and hygiene, particularly the distribution of drinking water, the disposal and treatment of wastewater, the collection, transport, and treatment of solid waste, the control of vectors of transmissible diseases, and the preservation of the health of food, places, and public institutions.

Under Law No. 12-06 related to associations, the legislator has mentioned that certain approved environmental associations may join foreign associations pursuing similar goals, provided that they respect national values and constants, as well as legislative and regulatory provisions. Associations can cooperate in partnership with foreign associations and international non-

governmental organizations that pursue the same goals, while respecting legislative and regulatory provisions³⁵.

There are many associations in Algeria with an ecological focus, but they are national in scope, such as the Association for Research on Climate and the Environment (A.R.C.E), the Association for the Promotion of Ecological Efficiency and Quality in Institutions (E.P.Q.U.E), and the Association for the Protection of the Environment and the Fight against Pollution, which operates in Annaba³⁶.

According to Article 35 of Law No. 03-10 related to environmental protection in the framework of sustainable development, the legislator has empowered associations with the right to bring an action before the competent courts in any case of environmental damage. The legislator has also acknowledged that natural persons who have suffered individual damage caused by the same person and originating from a common source as mentioned in Article 37 may seek redress. This includes provisions that violate the legislative measures related to environmental protection, improvement of the living environment, and the safeguarding of water, air, the atmosphere, land, subsoil, natural spaces, urban development, and the fight against pollution. Consequently, any association approved under Article 35 and if authorized by at least two natural persons concerned may bring an action for compensation on its behalf before any court. The association can also bring a legal action and exercise the rights recognized to the civil party before any criminal court³⁷

F) Efforts of the Urban Planning and Environmental Protection Police in the Field of Environmental Protection

The Urban Planning and Environmental Protection Police Unit was created³⁸ by virtue of the Decree No. 5078 dated 08/05/1983 in Algiers, and then extended to the other *wilayas*. The activity of this unit was suspended in 1991 by Decree No. 1435 dated 21/07/1991 due to the security situation at that time. However, with the growth of the phenomenon of unauthorized construction and the increase in environmental violations, the Ministry of the Interior decided to revive these units "Urban Planning and Environmental Protection Police" again starting in 1997 in the capital and to expand them in 1999 to all its dependent departments. Starting from April 2000, these units were reactivated at the level of the major cities: "Oran, Constantine, and Annaba". This plan ended with the generalization of these teams and units in August 2000 throughout the national territory³⁹

The Urban Planning and Environmental Protection Police work alongside local technical services to ensure that laws and regulations regarding urban development and environmental

protection are followed. They also assist with the enforcement of regulations related to urban development, environmental protection, and the beautification of cities and neighborhoods.⁴⁰

Conclusion

Environmental issues are a critical concern that has garnered the attention of both international and domestic actors. Algeria is among these participants, showcasing its dedication to environmental protection through a range of enacted laws. It is clear that all countries must unite to tackle the environmental threats that endanger ecosystems in various forms. We must acknowledge that pollution knows no borders and that increased efforts, especially at the international level, are necessary due to their substantial influence on national laws and regulations. The Algerian legislator's efforts to align with international environmental legislation are notable, especially given the wealth of diverse laws and institutions in this field. Key pieces of independent Algerian environmental legislation include Laws No. 83-03 dated February 5, 1983, and Law No. 03-10 for Environmental Protection within the Framework of Sustainable Development. These laws serve as significant legal references for the Algerian legislator. Additionally, information and participation are essential tools for achieving participatory democracy, and these should be prioritized and implemented.

Recommendations:

- In light of the escalating environmental problems, both Algerian and international environmental legislation require a multitude of well-considered environmental plans tailored to the magnitude and nature of the environmental issue, as well as continuous coordination between various international actors and environmental protection bodies in Algeria.
- Utilize and exchange expertise with leading environmental protection countries and develop human resources, which are crucial for environmental protection.
- Establish an independent environmental criminal law dedicated to safeguarding the environment in all its aspects. Clearly define the elements of environmental crimes and impose financial penalties commensurate with the severity of pollution.
- Enhance international cooperation among countries and international organizations, to ensure continuous coordination and harmonization of international legal frameworks for environmental protection. Set forth sanctions on nations that violate international laws and norms, and strengthen international accountability for environmental damage. For instance, address the actions of the Israeli occupation forces in the Gaza Strip and their use of

internationally banned weapons. We commend the Algerian state's diplomatic efforts at the United Nations to achieve a ceasefire in Gaza.

- Implement economic and diplomatic sanctions against nations causing environmental harm. Establish an international monitoring and investigation body under the direct supervision of the UN General Assembly.

¹Nadia Omrani, "The Role of International Agreements and Domestic Legislation in Environmental Protection," *Al-Mufakkir Journal*, University of Biskra, Issue 15, 2017, p. 319.

²International environmental agreements are available on the website: <http://forum.kooora.com/f.aspx?t> Accessed on: September 17, 2021, at 21:20.

³Article 8 of the 1972 World Heritage Convention for Cultural and Natural Heritage, available at <https://www.almeezan.qa>.

⁴Same reference as in Article 15.

⁵Nadia Omrani, *Ibid*, p. 320.

⁶Omar Mekhlouf, "Evaluation of International Legal Mechanisms for Combating Desertification in the Context of its Relationship with Forest Wealth: A Study in Light of the Provisions of International Environmental Law," *The Professor Research Journal of Legal and Political Studies*, University of M'sila, Volume 4, Issue 02, 2019, p. 1495.

⁷Ahmed Mahmoud El-Gammal, *Marine Environment Protection from Pollution in Light of National Legislation, Regional Agreements, and International Treaties*, 2nd ed., Manshurat Al-Maaref, Alexandria, 2007, p. 54.

⁸Hanane Amieur, "Legal Protection of the Marine Environment from Pollution Caused by Ships beyond the National Jurisdiction of States," *Journal of Humanities Sciences*, University of Constantine, Volume 31, Issue 1, June 2020, p. 338.

⁹Nadia Omrani, *The Previous Reference*, p. 313.

¹⁰Sameer Shoukry, "Marine Environmental Damage in Light of Algerian and International Law," *Algerian Journal of Legal, Political, and Economic Sciences*, Faculty of Law, University of Algiers 01, Volume 57, Issue 01, 2020, p. 245.

¹¹ Ahmed Eskandar, *Lectures on Marine Environmental Pollution*, Master of Environmental Law, Faculty of Law, University of Algiers 01, 2011-2012, p. 43.

¹²Nadia Omrani, *The Previous Reference*, p. 314.

¹³Salah Abdul Rahman Abdul Hadi, *The International Legal System for Environmental Protection*, Al-Halabi Legal Publications, Lebanon, 2010, p. 50.

¹⁴ Nadia Omrani, *The Previous Reference*, pp. 316-317.

¹⁵Malika Shamsiya, *Protection of Air Environment in International Public Law and Algerian Law*, Master's Thesis, Environmental Law Specialty, Faculty of Law and Political Science, University of Ouadja, 2018-2019, pp. 26-27.

¹⁶Kyoto Protocol, Supplementary to the United Nations Framework Convention on Climate Change, [Online]: <http://unfccc.int/resource/docs/convkp/kparabic.pdf>

¹⁷ Cherifi Cherif, Non-governmental organizations and their role in promoting and protecting human rights in Algeria, Master's thesis in public law, Faculty of Law, University of Aboubaker Belkaid Tlemcen 2007/2008, p. 06.

¹⁸ Omar Saad Allah and Ahmed Ben Nasser, Contemporary International Law, Office of University Publications Ben Aknoun Algiers, fifth edition (05), 2009, p. 314.

¹⁹ Brahim Said, The Role of International Non-Governmental Organizations in the Promotion and Protection of Human Rights, Master's Thesis in Public Law, Specializing in International Relations and International Organizations Law, Faculty of Law and Political Science, University of Mentouri Constantine 2009/2010, p. 13.

²⁰ Zaid Mal Safiya, Environmental Protection in the Framework of Sustainable Development in Light of the Provisions of International Law, PhD Thesis in Law, Specialization: International Law, Faculty of Law and Political Science, University of Mouloud Mammeri, Tizi Ouzou, p. 245.

²¹ Same reference, p. 260 and the following.

²² Ahmed Abdul-Munim, "Administrative Legal Means for Environmental Protection in Algeria," Doctoral Thesis in Legal Sciences, General Law Specialty, University of Ben Youcef Ben Khedda, Algeria, 2008/2009, p. 10.

²³ The same reference, pages 16-17

²⁴ Ben Bouabdallah Mouniya, Ben Bouabdallah Warda, Evaluation of the legal mechanisms for environmental protection in Algerian legislation, Route Educational & Social Science Journal. Volume 6(5) April 2019. pp 280-283

²⁵ Ramadan Abdelmadjid, The role of local communities in the field of the environment, a study of the municipalities of the M'zab Valley plain in Ghardaïa, Master's thesis, Faculty of Law and Political Sciences, University of Ouargla, Algeria, p. 36

²⁶ Yahia Wenass, "Legal Mechanisms for Environmental Protection in Algeria," Doctoral Thesis in Legal Sciences, General Law Specialty, University of Abi Bakr Belkaid, Tlemcen, Algeria, 2007, p. 13.

²⁷ Ben Ahmed Abdelmonem, The previous reference, p.10.

²⁸ Allal Abdelatif, The Impact of Legal Protection of the Environment in Algeria on Sustainable Development, Master's thesis in law, specializing in the state and public institutions, University of Algiers, 2010/2011, p. 03.

²⁹ Hassouna Abdelghani, The previous reference, p. 14

³⁰ Law No. 90-29 related to urban planning and development, as amended and supplemented

³¹ See Article 86 of Law No. 12-07 related to the wilaya.

³² See Articles 102 and 103 of Law No. 12-07 related to the wilaya.

³³ See Article 25 of Law No. 03-10 related to environmental protection in the framework of sustainable development.

³⁴ See Articles 108-109 of Law No. 11-10 related to the municipality, as amended and supplemented.

³⁵See Articles 22-23 of Law No. 12-06 related to associations.

³⁶Zaid Mal Safiya, The previous reference, p. 249.

³⁷See Article 38 of Law No. 03-10 related to environmental protection in the framework of sustainable development.

³⁸ It should be noted that there is no definition of the term "Urban Planning Police" in the legal texts. Some researchers, including Dr. Mohamed Seghir Baali, believe that the Urban Planning Police are a type of judicial police as they are subordinate to the National Security apparatus. Legislative Decree No. 94-07 related to: the conditions of architectural production and the practice of the profession of architect, as amended and supplemented, states that they are "judicial police". The Urban Planning Police have been defined as a group of agents with technical experience in the field of construction and agents with experience in deterring crimes and offenses, which makes each category complementary to the other from the administrative and security aspects, which stands on a number of excesses and violations related to the environment and urban development... The Belgian law also relied on the Urban Planning Police and called it the administrative police for construction to investigate violations, see Arabi Baayezid Strategy of construction in the light of the Algerian urban planning and development law, a thesis submitted for a doctorate in legal sciences, specializing in real estate law, Department of Law, Faculty of Law and Political Science, University of Batna, academic year 2014/2015, footnote p. 288 Urban Planning Police is defined as: "An executive body that ensures the application of legal texts that make acts affecting urban development illegal acts. It is specialized in the embodiment of legal texts" see Mezouzi Kahina, Effectiveness of urban planning laws in the face of the risks of natural disasters in Algeria, a memorandum for a master's degree in legal sciences, specializing in administrative law

³⁹Hassouna Abdelghani, "Legal Protection of the Environment in the Framework of Sustainable Development," Doctoral Thesis in Law, Business Law Specialization, Faculty of Law and Political Science, University of Biskra, Academic Year: 2012/2013, p. 107. Hanane Missawi, "Mechanisms for Protecting National Property," Doctoral Thesis in Public Law, Faculty of Law and Political Science, University of Tlemcen, Academic Year: 2014/2015, pp. 294, 295. Tekouacht Kamal, "Legal Mechanisms to Reduce the Phenomenon of Unplanned Construction in Algeria," Master's Thesis in Law, Real Estate Law Specialization, University of Batna, Academic Year: 2008/2009, p. 115. Sadek Ben Azzouz, "The Role of Administration in Applying Urban Planning Provisions in Algerian Legislation," Master's Thesis in Law, Administrative Law and Public Administration Specialization, Faculty of Law and Political Science, University of Batna, Academic Year: 2011/2012, p. 159

⁴⁰ See the official website of the Algerian National Police: www.algeriepolice.dz.

List of Sources and References:

A- Books:

1. Ahmed Mahmoud Al Jamal, Marine Environmental Protection from Pollution in Light of National Legislation, Regional Agreements, and International Treaties, 2nd Edition, Ma'arif Establishment, Alexandria, 2007.
2. Saad Allah, Umar, and Ahmed Ben Nasser, Contemporary International Law, Diwan Al Matbou'at Al Jam'iyah Ben Aknoun Algeria, 2009.

3. Salah Abdel Rahman Abdel Hadithi, International Legal System for Environmental Protection, Halabi Legal Publications, Lebanon, 2010.

B- Theses and Scientific Papers:

4. Alal Abdelatif, Influence of Legal Protection of the Environment in Algeria by Sustainable Development, Master's Thesis in Law, State and Public Institutions Specialization, University of Algiers, 2010-2011.
5. Arabi Bahi Yazid, "Building Strategy in Light of the Algerian Urban Planning and Construction Law," Doctoral Thesis in Law, Real Estate Law Specialization, Faculty of Law and Political Science, University of Batna, Academic Year: 2014/2015.
6. Ben Ahmed Abdel Monem, Administrative Legal Means for Environmental Protection in Algeria, Doctoral Thesis in Legal Sciences, General Law Specialization, University of Ben Yousef Ben Khedda, Algeria, 2008/2009.
7. Brabah Said, "The Role of International Non-Governmental Organizations in Promoting and Protecting Human Rights," Master's Thesis in Public Law, Branch of International Relations and Law of International Organizations, Faculty of Law and Political Science, University of Constantine 2009/2010.
8. Cherifi, Cherif, Non-Governmental Organizations and Their Role in Promoting and Protecting Human Rights in Algeria, Master's Thesis in Public Law, Faculty of Law, University of Abderrahmane Mira Bejaia, 2007/2008.
9. Hanane Missawi, "Mechanisms for Protecting National Properties," Doctoral Thesis in Public Law, Faculty of Law and Political Science, University of Tlemcen, Academic Year: 2014/2015.
10. Hassouna Abdelghani, Legal Protection of the Environment within the Framework of Sustainable Development, Doctoral Thesis in Law, Business Law Specialization, University of Mohamed Khider, Biskra, Algeria, 2012/2013.
11. Mezouzi Kahina, "The Effectiveness of Urban Planning Laws in Facing the Risks of Natural Disasters in Algeria," Master's Thesis in Law, Administrative Law and Public Administration Specialization, Faculty of Law and Political Science, University of Batna, Academic Year: 2011/2012.
12. Nass Yahia, Legal Mechanisms for Environmental Protection in Algeria, Doctoral Thesis in Law, General Law Specialization, University of Abi Bakr Belkaid, Tlemcen, Algeria, 2007.

13. Raif Mohamed Labib, *Procedural Protection of the Environment*, Master's Thesis, Faculty of Law, Menoufia University, Egypt, 2008.

14. Ramadan Abdel Mageed, *Role of Local Communities in the Field of Environment*, Study of Municipalities in the Sahl Oued M'zab region, Ghardaia, Master's Thesis, Faculty of Law and Political Science, University of Ouargla, Algeria.

15. Sadek Ben Azzouz, "The Role of Administration in Applying Urban Planning Provisions in Algerian Legislation," Master's Thesis in Law, Administrative Law and Public Administration Specialization, Faculty of Law and Political Science, University of Batna, Academic Year: 2011/2012.

16. Shamsiya Malikah, *Protection of the Atmospheric Environment in Public International Law and Algerian Law*, Master's Thesis, Environmental Law Specialization, Faculty of Law and Political Science, University of El Oued, 2018-2019.

17. Tekouacht Kamal, "Legal Mechanisms to Reduce the Phenomenon of Unplanned Construction in Algeria," Master's Thesis in Law, Real Estate Law Specialization, University of Batna, Academic Year: 2008/2009.

18. Zeid Malah Safiyah, "Environmental Protection in the Framework of Sustainable Development in Light of the Provisions of International Law," PhD Thesis in Law, Specialization: International Law, Faculty of Law and Political Science, University of Moulay Mammeri, Tizi Ouzou, Discussion Date: 27/02/2013.

C- Scientific Articles:

19. Amiour, Hanane, *Legal Protection of Marine Environment from Pollution Caused by Ships Beyond the National Jurisdiction of States*. *Journal of Human Sciences*, 2020, 31(1).

20. Ben Bouabdallah, Mounia, & Ben Bouabdallah, Warda. *Evaluation of Legal Mechanisms for Environmental Protection in Algerian Legislation*. *Route Educational & Social Science Journal*, 2019, 6(5).

21. Chouki, Samir. *Maritime Environmental Damage in Light of Algerian and International Law*. *Algerian Journal of Legal, Political, and Economic Sciences*, 2020, 57(1).

22.Mekhlouf, Omar.Evaluation of International Legal Mechanisms for Combating Desertification in Relation to Forest Resources: A Study in Light of International Environmental Law Provisions.Al-Muallim Al-Bahith Journal for Legal and Political Studies, 2019, 4(2).

23.Omrani, Nadia.The Role of International Agreements and Domestic Legislation in Environmental Protection.Al-Mufakkir Journal, 2017, 15.

D- Lectures:

24.Ahmed Eskandar, Lectures on Marine Environmental Pollution,Environmental Law Master's,University of Algiers 01,2012

E- Agreements and Legal Documents :

25.Algerian Constitutions: 1963, 1976, 1989, 2016, 2020 Law for Environmental Protection within the Framework of Sustainable Development, 03-10<http://forum.kooora.com/f.aspx?t>

26.Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972, available on the website: <https://www.almeezan.qa>

27.International Environmental Protection Agreements on :<http://forum.kooora.com/f.aspx?t>

28.Kyoto Protocol to the United Nations Framework Convention on Climate Change, available at: <http://unfccc.int/resource/docs/convkp/kparabic.pdf>

F-Website:

Algerian National Police Directorate General (DGSN): www.algeriepolice.dz