

Establishing Criminal Liability for Environmental Rights Violations in Algerian Law

إرساء المسؤولية الجزائية لانتهاك الحقوق البيئية في القانون الجزائري

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Abstract :

This study examines how Algerian law establishes criminal liability for violations of environmental rights, focusing on the legal framework and the severity of such crimes. Environmental offenses have caused extensive harm, surpassing traditional legal boundaries and threatening public health, biodiversity, and global security. Their escalating impact has made them a critical issue both nationally and internationally.

As a result, stronger legal mechanisms are needed to address these challenges. Criminal liability plays a vital role in ensuring accountability. Through specific penalties, Algerian legislation seeks to deter environmental crimes and protect the environment effectively.

Keywords : Criminal Liability, Environmental Rights, Pollution, Violation of Environmental Rights.

ملخص:

تعنى هذه الدراسة بتحليل كيفية إرساء المسؤولية الجزائية في القانون الجزائري تجاه الانتهاكات التي تطال الحقوق البيئية، مع التركيز على الإطار القانوني المنظم لها ومدى خطورة هذه الجرائم، فقد أدت الجرائم البيئية إلى إحداث أضرار واسعة النطاق، تجاوزت الحدود القانونية التقليدية، وأصبحت تشكل تهديدا مباشرا للصحة العامة، والتنوع البيولوجي، والأمن البيئي العالمي.

إنّ تفاقم هذه الانتهاكات جعل منها قضية بالغة الأهمية على الصعيدين الوطني والدولي، وهو ما يستدعي تعزيز الآليات القانونية لمواجهة بشكل أكثر فاعلية.

تلعب المسؤولية الجزائية دورا محوريا في ضمان محاسبة مرتكبي هذه الجرائم، وذلك من خلال إرساء قواعد قانونية واضحة تُعنى بحماية البيئة.

ويسعى المشرع الجزائري، من خلال فرض عقوبات خاصة، إلى تحقيق الردع العام والخاص، وتأمين حماية فعالة للبيئة من مختلف أشكال التعدي والإهمال.

الكلمات المفتاحية: الحقوق البيئية، التلوث، انتهاك الحقوق البيئية، المسؤولية الجزائية.

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Introduction

One of the most prominent and ongoing topics of international concern today is environmental protection, particularly with the growth and intensification of human activity and industrial progress, which have significantly impacted the environment. Consequently, international agreements and national legislation have been compelled to place substantial focus on environmental protection and to devise solutions for this major issue of the century. The threats leading to environmental pollution, depletion of natural resources, and encroachment upon ecosystems, among others, have posed severe risks that transcend individual and societal rights and may even extend to future generations.

Environmental crimes have infiltrated all aspects of life, making them among the most serious offenses committed by humans. These crimes vary in intensity and severity and have become evident in their impact on humans and their surrounding environment, extending to health, the economy, and beyond.¹²

According to modern legislation, environmental crimes are distinct from traditional crimes. This distinctiveness has created a significant challenge for such legislative frameworks, as conventional criminal templates fail to meet the specific requirements of these offenses, especially in terms of their nature and composition.³

In response, the Algerian legislator, like those in other nations, has established an environmental legislative policy that holds accountable anyone whose conduct harms the environment or who commits acts of environmental pollution, whether categorized as felonies, misdemeanors, or violations.

This study derives its importance from shedding light on environmental crimes, identifying those responsible, and examining the foundation of criminal liability for offenses against the environment, as well as assessing the adequacy of penalties imposed for such crimes within the context of Algerian society.

In this study, we have employed a descriptive-analytical approach by describing environmental crimes and clarifying the sufficiency or shortcomings of legal provisions, whether in terms of legislation or application, in assigning criminal liability and identifying perpetrators. We also analyze the relevant general and specific legal provisions within the Algerian Penal Code to reach solutions that enhance the effectiveness of criminal law in addressing environmental crimes and ensure the proper legal pursuit of offenders.

Legal Analysis of This Study Raises the Following Main Question:

Has the Algerian legislator succeeded in establishing a system of criminal liability for perpetrators of environmental crimes?

Based on the main question, the following sub-questions arise:

- **What are the legal foundations upon which the Algerian legislator relies to assign criminal liability to natural persons for environmental crimes?**
- **Are the penalties established for assigning criminal liability to natural persons sufficient to deter individuals from committing environmental crimes?**

- **Can legal persons subjected to criminal liability in environmental crimes be identified, and can they be held criminally accountable?**
- **How does Algerian law balance achieving environmental justice with ensuring the continuity of the work of legal persons?**

Based on the above, we have divided this study into two main chapters, each containing two sections as follows:

Chapter One: Establishing Criminal Liability for Violations of Environmental Rights by Natural Persons

- Section One: Assigning Criminal Liability for Violations of Environmental Rights by Natural Persons

- Section Two: Penalties Imposed for Violations of Environmental Rights by Natural Persons

Chapter Two: Establishing Criminal Liability for Violations of Environmental Rights by Legal Persons

- Section One: Assigning Criminal Liability for Violations of Environmental Rights by Legal Persons

- Section Two: Penalties Imposed for Violations of Environmental Rights by Legal Persons

1. Establishing Criminal Liability for Violations of Environmental Rights by Natural Persons

The universality of environmental rights is reinforced by their recognition as fundamental human rights across all continents, including Africa, Europe, and the Americas. This is evidenced by the Aarhus Convention,⁴ which encompasses environmental rights and emphasizes their protection.⁵ Additionally, the Kyoto Declaration, adopted in March 2021 during the 14th United Nations Congress on Crime Prevention and Criminal Justice, marked the first time member states committed to implementing effective measures to prevent and combat crimes that harm the environment⁶. Similarly, the United Nations Convention against Corruption underscores the need for international cooperation and commitment to preventing environmental crimes.⁷

Such measures reflect the recognition of fundamental rights essential for the preservation of human life, health, and well-being, as well as environmental safety. They also extend the right of public-interest litigation for any infringement or violation of environmental rights before human rights courts⁸.

Legislation aimed at protecting the environment serves little purpose if it does not include penalties to deter violators and restore conditions to their original state. For this reason, each state has enacted laws and regulations to protect against environmental rights violations and combat various types of pollution within its territorial sovereignty. These regulations are reinforced with criminal penalties to compel adherence and respect for environmental laws.⁹

The environment is considered one of the values that legislators seek to protect through all available mechanisms and to preserve it. The legislator has also provided criminal protection, which

represents one of the most prominent forms of legal protection for the environment, given the deterrent and corrective effect of criminal penalties, ensuring the rule of law through the criminal judiciary.

In contemporary times, the issue of criminal law's intervention to protect the environment has taken on new dimensions and significant attention at all levels, including, in general, the legal field and, in particular, the criminal law domain. This is to assess the extent to which criminal law can provide true protection for the environment.¹⁰

Algeria, as part of the global system, has sought to establish coherent environmental policies aimed at reducing the severity of environmental pollution caused by the spread of epidemics, the proliferation of diseases, and the overall deterioration of the environment. It has initiated the enactment of laws and the establishment of various specialized bodies responsible for environmental protection.¹¹

Criminal responsibility arises in domestic legal systems when individuals breach legal obligations that result in harm to public interests. Those who commit such acts are held accountable to the state, which represents society, and are penalized in its name.¹²

The legal protection of the environment in national legislation through the regulation of situations arising from certain activities may not always be sufficient to safeguard the environment, necessitating the intervention of the legislator to introduce criminal sanctions for violations of non-criminal regulatory rules. These non-criminal regulations have become a means to repair environmental damage by imposing penalties on those who fail to adhere to the organizational rules stipulated in non-criminal laws.

One of the most important penalties established by law, particularly in the environmental domain, is the role of responsibility in providing effective protection for the environment against violations of environmental rights and failures to fulfill obligations designed to prevent environmental harm.

In this section, we will address the assignment of criminal responsibility for violations of environmental rights by natural persons (first demand) and the penalties resulting from violations of environmental rights for natural persons (second demand).

1.1. Assigning Criminal Responsibility for Violations of Environmental Rights by Natural Persons

The importance of distinguishing between the protection of environmental values and human values lies in the recognition of a separate crime against the natural environment.¹³ This distinction has led countries to strive, through their legislation, to include a set of obligations and legal principles that define the relationship between humans and the environment, and to impose legal penalties on those who violate these principles. Anyone who engages in activities harmful to the environment is held accountable under the law for violating environmental rights.¹⁴

Legal scholars argue that environmental criminal law is on the rise. In general, it has been legislated to enhance control and suppress environmental crimes, while also generalizing environmental criminal judicial policy. This enables the judiciary to systematically examine cases involving serious, irreversible environmental damage.¹⁵

Environmental crime is diverse and multifaceted, prompting the Algerian legislator to monitor these types and limit the definition of each environmental crime's elements. This approach aligns with the legal logic of criminalization, making it difficult to establish a unified definition of environmental crime. However, it seems to be consistent with the principle of legality in criminal law, ensuring that crimes and punishments are clearly defined.¹⁶

Some legal scholars argue, in line with contemporary domestic law, which adopts criminal liability for international crimes, protecting natural persons and based on free will, that an individual is responsible when they are aware of the nature of their actions. In this context, the moral judgment of the act is the link between the result and the act itself, even when the person is capable of distinguishing between right and wrong and choosing between them.

1.1.1. Criminal Liability of Natural Persons in Environmental Crimes

The distinctive nature of environmental harm sets it apart from traditional damages due to its often indirect and rapidly spreading effects, making it difficult to pinpoint its boundaries. This has created the need for concerted efforts from all societal groups to combat it, especially in the face of economic growth and the increasing accumulation of human pollutants.¹⁷

Opinions on defining environmental crimes vary due to the disruption of ecological balance and the serious damage they cause. As such, the Algerian legislator does not define environmental crimes explicitly, unlike the French and Egyptian legislations, instead leaving this task to legal scholars to determine a specific definition for these crimes. The Algerian legislator limits itself to describing the elements of the environment and outlining the elements of each environmental crime, as detailed in Law 03-10.¹⁸

Several definitions of environmental crimes exist in the literature, each reflecting a different perspective. One definition describes environmental crime as: "any intentional or unintentional positive or negative act, performed by a natural or legal person, that harms or attempts to harm one of the environmental elements, either directly or indirectly."¹⁹

Another definition states: "An environmental crime does not differ in its essence from the general understanding of a crime, as it represents an aggression that threatens public interest and society. However, as a newly emerging form of traditional crimes, it is distinguished by its specific elements."²⁰

We conclude from these definitions that environmental crime is the act that violates a legally enshrined environmental right (the right to a clean and healthy environment), and the law criminalizes this act. This act may take the form of an affirmative action prohibited by law or a negative act, which is the failure to fulfill an obligation imposed by law.

Environmental crime may be of a personal nature if committed by a natural person who violates the provisions designed to preserve environmental balance, such as an individual discharging pesticides or radioactive materials without adhering to permissible limits for substances and gases.²¹

The expansion of criminalization in environmental pollution and harm to biological balance is one of the main reasons for the establishment of criminal liability for perpetrators of environmental crimes, particularly following the occurrence of destructive environmental disasters that affected many countries.²²

The principle of criminal liability is originally personal and individual, meaning that a person is only responsible for the consequences of their actions in committing crimes punishable by law, and they cannot be held accountable for the actions of others. Moreover, the status of the perpetrator applies only to natural persons, and thus legal entities cannot be subject to criminal liability.²³

We conclude that this analysis does not align, especially after the evolution of the modern legal system of traditional criminal liability, which has necessitated abandoning the principle of the personal nature of punishment, particularly after the emergence of several forms of serious crimes, especially those committed by others, as well as the involvement of classified establishments in the field of environmental protection.

1.1.2. Determining the Criminal Responsibility of Natural Persons for Environmental Crimes

The reality indicates that the criminal responsibility of natural persons in environmental crimes is determined by the fact that the description of the offender in environmental crime applies to any person who deliberately threatens or harms the environment, thereby causing any damage with full awareness and understanding. Thus, the person who is held accountable is the one who directly or indirectly contributed to the crime of environmental pollution or endangered the environment, in accordance with the principle of "personal responsibility," which is a constitutional principle. This is what led criminal legislations to rely on rules and standards for attributing the crime to the criminal, as attributing the crime in environmental crimes is a highly complex matter.

Criminal penalties are imposed only on those who commit or participate in committing a crime, meaning on individuals who fulfill both the material and mental elements of the offense. Determining this responsibility can be challenging due to the multiplicity of contributing factors. Article 142 of the amended and supplemented 1996 Algerian Constitution stipulates that "criminal penalties are subject to the principles of legality and individuality."²⁴

1.1.2.1. Criminal Liability of the Natural Person for Personal Acts in Crimes Against the Environment

According to the fundamental principles of criminal accountability, the criminalization of acts committed by a natural person is established solely on the basis of material attribution. This is satisfied when it is proven that the conduct of the offender is the actual cause of the criminal outcome. However, due to the complexity of environmental crimes and the multiplicity of their material manifestations, the Algerian legislator has not adhered strictly to the established principles for establishing criminal liability in general offenses. Instead, within the framework of environmental criminalization, the legislator has sought to broaden the scope of criminal accountability to encompass individuals whom general criminal law rarely considers as offenders or beneficiaries through their consumption, involvement, or participation in the crime.²⁵ A person is deemed criminally responsible if they deposit, dispose of, bury, submerge, or negligently abandon hazardous waste in non-designated areas, in accordance with Article 64 of Law 01-19.²⁶

In order to establish methods of attributing criminal responsibility, legal doctrine and judicial practice have identified four approaches to determining the criminal liability of a natural person for their personal acts: legal attribution, material attribution, contractual attribution, and criminal contribution²⁷.

A- Determining Criminal Liability through Legal Attribution:

Legal attribution is one of the methods used to identify the offender and designate them as responsible for environmental crimes. However, the Algerian legislator rarely specifies the identity of the perpetrator of the crime, often employing general terminology that applies to any individual who commits the crime.²⁸

Legal attribution disregards whether the individual is specifically the perpetrator of an environmental crime; rather, the perpetrator of the material acts of the environmental crime is defined by legislative text, which identifies the offender as criminally liable. The Algerian legislator mandates, through legal provisions, that a specified individual bears responsibility for the consequences of the environmental crime, regardless of their degree of participation. Thus, the individual specified by the legal text remains liable in either case.

B- Determining Criminal Liability through Material Attribution:

This approach to criminal liability is based on the idea that an individual is only responsible for the consequences of their actions if these actions can be attributed to them. Scholars who support this perspective have linked attribution, criminality, and liability, considering them complementary. This approach posits attribution as the primary condition for establishing liability, which in turn is the direct result of causation. According to the method of material attribution, an individual is considered the perpetrator of a crime if they take material measures related to the crime or fail to fulfill certain obligations as defined by legislative texts.²⁹

The Algerian legislator has adopted this approach in various provisions related to environmental protection. Consequently, a crime cannot be conceived without material attribution; in other words, a natural person is not held responsible for their actions unless those actions are preventive measures or criminal activities specified by law. The Algerian legislator has imposed specific measures on certain individuals to reduce pollution, as stated in Article 32 of Law No. 03-10 concerning environmental protection. If individuals fail to take these prescribed measures, they are deemed criminally liable based on material attribution. The Algerian legislator has incorporated material attribution in various environmental provisions, such as Article 81, which provides for the punishment of anyone who mistreats a domestic, tame, or confined animal, whether publicly or privately, or subjects it to harsh treatment. Similarly, Article 90 of the same law stipulates the punishment of any captain of an Algerian ship or aircraft, or any person overseeing dumping or incineration operations at sea using Algerian vessels or floating structures, whether fixed or mobile, within waters under Algerian jurisdiction. These individuals are thus held criminally responsible based on material attribution³⁰.

C- Determining Criminal Liability through Contractual Attribution:

Contractual attribution is also known as delegated attribution of responsibility. It occurs through the employer, whether the head of an industrial or economic enterprise, or as the manager of a classified facility in the absence of another responsible person for all environmental criminal violations committed during or by the activities conducted by the enterprise. Hence, criminal liability is attributed to those to whom some or all responsibilities have been delegated by the owner of the facility or enterprise under their supervision, so that environmental violations fall within their authority.³¹

The Algerian legislator has not adopted the contractual attribution approach at all, as its adoption might not achieve effective deterrence in relation to crimes committed within the

framework of activities carried out by a legal entity held criminally responsible. The contractual attribution method is of particular importance when the responsibilities are entangled and complex within classified establishments, where determining the environmental relationship becomes challenging.

1.1.2.1.2. Criminal Responsibility of the Natural Person for the Acts of Others in Environmental Crimes

The traditional form of criminal responsibility is based on an individual's personal fault. However, responsibility for the acts of others arises from criminal acts committed by someone else. Both forms of criminal responsibility have wide applications in environmental pollution offenses, reflecting the legislator's intent to provide effective protection for the environment, whether by the employee or by the entity owner. This includes the criminal liability of the establishment owner for the same act, considering the dangerous nature of their criminal activity.

Environmental legislation acknowledges the criminal responsibility of the manager, who exposes themselves to prosecution due to their failure to supervise their subordinates or their lack of caution in taking the necessary precautions and preventive measures to avoid environmental pollution risks. This also applies to physical acts committed by employees who violate public orders and regulations.³² It can be concluded that the person who bears responsibility has failed to fulfill their duties related to monitoring and supervising, and this is known as criminal liability for the acts of others.

The Algerian legislator has adopted criminal responsibility for the manager, which has also been upheld by the French Court of Cassation multiple times. For example, one case convicted a company's CEO for failing to supervise the operations of their company in relation to sea pollution crimes. Another case held the factory manager responsible for the pollution of a protected nature reserve and the harm to wildlife there, based on their poor selection of the team tasked with waste disposal. One ruling stated: "The CEO's position requires them to directly and continuously contribute to all works of the institution and to personally oversee the implementation, ensuring that the instructions issued under their personal responsibility are followed."³³

1.2. Sanctions for Violating Environmental Rights by the Natural Person

The primary objective of environmental criminal penalties has always been to achieve both general and specific deterrence. These penalties aim to restore the status quo prior to the environmental crime, thus deterring the offender and eliminating the consequences of the environmental violation. Criminal justice plays a crucial role in deterring environmentally harmful criminal behavior, alongside civil deterrence.³⁴ The purpose of the penalty is to ensure general or specific deterrence, thereby creating conditions that facilitate the achievement of the legislative intent. Criminal law remains one of the most important and effective tools used by both the international and national communities in combating environmental damage caused by pollution and corruption, and in controlling such issues.

Criminal penalties are the means by which the state, through judicial authorities, ensures that those subject to the law comply with its provisions. The penalties established to address crimes committed against the environment are consistent with the provisions of the Penal Code, as affirmed by the punitive texts in the field of environmental protection.

1.2.1. Primary Penalties for Natural Persons in Environmental Crimes:

These are the main penalties for crimes as prescribed by law, and they include penalties affecting the person, such as those involving physical harm, as well as those depriving freedom or imposing financial sanctions. The legislator has applied these penalties as follows:

First: The Death Penalty in Environmental Crimes: This includes Articles 87 of the Penal Code and Article 47 of the Maritime Law.³⁵

A- Deprivation of Liberty Penalties: The penalty of deprivation of liberty is imprisonment or detention. This type of penalty is considered one of the most effective and influential means of protecting the environment. Therefore, it is stipulated in all Arab environmental legislations. The duration of the deprivation of liberty sentence varies depending on the severity of the violation or harm committed against the environment.

It is permissible to impose a fine as an alternative to imprisonment or detention, and in some cases, the law may mandate the combination of both, depending on the legal text. In some cases, the legal system or legislation sets a maximum term for imprisonment or detention without specifying a minimum, while in other instances, the legislator may establish a minimum term for imprisonment or detention without determining the maximum limit. This approach is reflected in most Arab environmental protection laws, which is a prudent policy given the nature of the offenses, allowing the judge to select an appropriate penalty based on the circumstances of the crime.³⁶

The Algerian legislator has set the following penalties for deprivation of liberty:

- Imprisonment from 10 to 20 years, as per Article 396-4 of the Penal Code.³⁷
- Article 66 of Law 01-19 concerning Waste Management, which imposes imprisonment from one to three years on anyone who deposits hazardous waste in non-designated locations.³⁸

B- Financial Penalties: A fine is a financial obligation imposed by a court ruling on the convicted individual in favor of the state treasury. This penalty aims to inflict financial harm on the offender and serves as a form of compensation for the damage caused to a collective interest when an individual exercises their rights unlawfully or exceeds the limits of their rights. One characteristic of this penalty is that it sometimes serves as the sole primary penalty imposed on the offender's actions, while in other cases, it may be an additional penalty in conjunction with a prison sentence.³⁹

Article 84 of the Environmental Protection Law, No. 03-10, stipulates that anyone who violates the provisions of Article 47 of this law and causes air pollution shall be fined between 5,000 DZD and 15,000 DZD.

- Article 100 of the Environmental Protection Law No. 03-10 provides for imprisonment for two years and a fine of 5,000 DZD, leaving the judge no discretion in determining the penalty.⁴⁰

C-Supplementary Penalties: Article 09 of the Algerian Penal Code lists supplementary penalties exhaustively, and supplementary penalties can only be imposed if coupled with a primary penalty unless otherwise stipulated by law. The law specifies whether they should be imposed alongside the original penalty or left to the judge's discretion. In addition to the primary penalties, the judge may impose supplementary penalties, such as

confiscation of property and objects related to the crime. The legislature has adopted a confiscation system in all environmental crimes. Publication of the judgment is also a supplementary penalty, aimed at discrediting the reputation and status of the perpetrator and warning the public of their actions and behavior. Although this penalty was provided for before the amendment, it was removed despite its importance, particularly for legal entities, as it causes disruption and loss of dealings, leading to financial losses. Closure of the facility violating the regulations, either temporarily or permanently, is also a potential penalty.⁴¹

- What can be observed from the above texts is that restoring the situation is almost always a supplementary penalty required alongside the primary penalty.

2. Criminal Liability of Legal Entities for Violating Environmental Rights:

A legal entity may commit criminal acts and violate laws protecting the environment due to its moral will and desire to increase profits. This will allow it to perform actions that generate rights and obligations, making it a basis for legal violations. It is known that liability is based on the principle of personal punishment, meaning that those who do not contribute to crimes are exempt from punishment. Environmental criminal liability extends the scope of responsibility due to the nature of environmental crimes. The principle underlying modern penal legislation is that only natural persons can be held responsible, but with the expansion of the activities of legal entities, it has become necessary to subject them to distinct legal treatment, including criminal liability for crimes committed in connection with the activities they carry out, including environmental crimes.⁴²

The Algerian legislator did not recognize the criminal responsibility of legal persons before 2004. The reason for this may be that most institutions were public, as indicated by several studies. However, after the adoption of the criminal liability system for legal persons in 2004, the legislator resolved his position in line with the possibility of prosecuting legal persons criminally, considering the state as a collective entity responsible for tasks on its behalf and for its benefit.⁴³

2.1. Assigning Criminal Responsibility for Violating Environmental Rights to Legal Entities:

The Algerian legislator stipulated in Article 49 of the Algerian Civil Code: "The entities responsible for criminal liability are the state, the wilaya (region), municipalities, institutions, associations, and companies of all types, whether they are subject to public law or private law."⁴⁴

Algerian legislation excludes the state and its institutions from criminal liability based on Article 51, which states: "Except for the state, local authorities, and legal persons subject to public law, a legal person is criminally responsible for crimes committed on its behalf by its organs or representatives when the law so stipulates."⁴⁵

Article 51 implies that a legal person is criminally liable for acts committed on its behalf by its organs or legal representatives when the law so stipulates. It has excluded the state, local authorities, and legal persons subject to public law from criminal accountability.⁴⁶

Article 92, paragraph 3 of the Environmental Protection Law 03/10 stipulates: "When the owner or operator is a legal person, the responsibility outlined in the previous paragraphs falls on the legal representatives or actual managers who oversee or manage, or any other person delegated by them."⁴⁷

From the above, it is understood that not all legal persons are subject to criminal liability. The legislator, in Article 51 of the Penal Code, excluded legal persons subject to public law in general from criminal responsibility and established criminal liability for legal persons under private law. The justification may be that a legal person subject to public law enjoys sovereignty and represents the state in criminal liability for environmental crimes.

In addition to this general principle in the Penal Code, a number of environmental provisions explicitly state the criminal responsibility of classified establishments for environmental violations. Among these is the Waste Management Law, according to Article 56, which punishes those who dump or neglect household waste and similar materials, or refuse to use waste collection and sorting systems made available by local authorities. In case of recidivism, the penalty is doubled. The Fisheries Law also includes, in Article 04, the application of all violations related to activities involving the development and exploitation of biological resources on both natural persons and legal persons.⁴⁸

Thus, it can be understood from the above provisions that there are two conditions for holding a legal person criminally liable:

The commission of a criminal act by the legal person's organs or those authorized to act on its behalf, and the act being carried out for the benefit of the legal person.⁴⁹

2.2.1. Conditions for Holding a Legal Entity Criminally Liable for Environmental Crimes:

The Algerian legislator outlined the provisions regarding legal entities subject to environmental law in detail in Environmental Law 03-10. This law specifies which legal entities are subject to its provisions and the responsibility of these entities and their representatives for environmental crimes, as stated in Article 18 of the aforementioned law. Criminal or penal liability refers to the obligation of an entity to bear the consequences of its criminal act. This liability is not a component of the crime itself but rather its legal consequence.

The Algerian legislator acknowledged the legal personality of commercial companies as a general principle, excluding only "partnerships in participation," which do not possess legal personality. This is in accordance with Article 795 clause 02 of the Civil Code.⁵⁰

From this, we can conclude that the Algerian legislator excluded certain collective entities that, due to their legal form, lack a legal personality, such as partnerships in participation, from the application of the Penal Code.

According to Article 51 of the Penal Code, two conditions have been established for holding a legal entity criminally liable for environmental crimes, as outlined below:

First: Commission of Environmental Crimes for the Benefit of the Legal Entity: The essential condition for holding a legal entity accountable is that the crime is committed with the intent of achieving an advantage or benefit for the legal entity, such as generating profit or avoiding damage, whether real or potential, material or moral. This implies that the illegal actions must be committed for the benefit of organizing and managing the legal entity's activities, with all acts constituting the crime undertaken to serve its interests. From the provisions of Article 51, it can be inferred that an environmental crime committed for the benefit of a legal entity is executed by a natural person acting to secure profit or avert harm on behalf of the legal entity.⁵¹

Second: Commission of the Environmental Crime by a Natural Person with Intent: The essence of this condition is that the environmental crime must be committed by a natural person with willful intent, acting as a representative for the legal entity, for the charges to be attributed to the latter. Thus, a legal entity cannot be held accountable for crimes perpetrated by ordinary employees.⁵²

2.2.2. Sanctions Imposed for Violating Environmental Rights by a Legal Entity

When the criminal liability of a legal entity for environmental offenses is established, it is necessary to impose punitive measures that align with its legal nature, provided no exculpatory reasons exist.⁵³ The Algerian legislator has outlined penalties tailored to the nature and financial capabilities of legal entities. Article 18 of the Penal Code specifies the penalties applicable to legal

persons. Before addressing these penalties, it is important to first identify the crimes for which a legal entity can be held liable, and then discuss the associated sanctions.⁵⁴

2.2.2.1. Crimes for Which a Legal Entity Is Held Liable in Environmental Offenses

The Algerian legislator, under Article 56 of Law 01/19 on Waste Management, Monitoring, and Disposal, specifies the environmental crimes for which a legal entity can be held liable. This includes the prohibition against dumping or neglecting waste of all kinds, as well as penalizing any legal entity that refuses to use a designated waste collection and sorting system. Article 18 of Law 03-10 on Environmental Protection within the Framework of Sustainable Development also identifies private legal entities that can be held accountable for violations stipulated under this law, including institutions, workshops, factories, quarries, and mines. In general, this applies to any establishment owned by a natural or legal person that causes environmental damage.⁵⁵

Article 92-03 of Law 03-10 also stipulates that if a legal entity owns or operates an Algerian ship or aircraft engaged in incineration or dumping at sea, the criminal liability falls on the legal representatives, actual managers, supervisors, or any individual authorized by the legal entity to carry out such actions. From this, it can be deduced that the Algerian legislator holds actual managers criminally accountable in cases involving environmental offenses.

2.2.2.2. Penalties for Legal Entities in Environmental Crimes

The criminal penalties for legal entities are, in some cases, unchallenged, as many of these sanctions are applicable to legal persons and are comparable in their effects to penalties imposed on natural persons. Penalties such as dissolution end the existence of the legal entity, while closure prevents it from continuing its operations. Fines and confiscation target the financial assets of the entity, serving as a form of "capital punishment" for the entity. Although the penalties of imprisonment for natural persons are not directly applicable to legal persons, they are represented by measures such as placing the entity under guardianship or restricting its activities, either partially or completely, or excluding it from the public market.⁵⁶

A- Primary Penalties:

The primary penalties for legal entities in environmental crimes include fines. The Algerian legislator stipulates that the fine imposed on a legal entity may range from one to five times the maximum fine applicable to a natural person, as per the relevant provisions.

B- Additional Penalties :

- **Dissolution of the Legal Entity:** With the possibility of including a criminal record to enhance the penalty for the legal entity, which would record every judgment or decision regarding a criminal penalty that is final and unappealed.
- **Bankruptcy Decrees or Non-criminal Judicial Settlements:** These measures include public declarations of bankruptcy or non-criminal judicial resolutions.
- **Closure of the Facility:** The closure of the company or its branch for a period not exceeding five years.
- **Exclusion from Public Contracts:** A ban on engaging in public tenders for a period not exceeding five years.
- **Prohibition from Practicing Professional or Social Activities:** A complete or partial ban on activities for a period not exceeding five years.

- **Confiscation of Items Used in the Crime:** Seizure of any objects used in the commission of the crime or that resulted from it.
- **Publication of the Conviction:** The public posting and announcement of the conviction.
- **Judicial Guardianship:** Placing the entity under judicial guardianship for a period not exceeding five years, specifically on the activity that led to or accompanied the crime.

The provisions in **Article 18** indicate that the penalties applied to legal entities primarily consist of fines, which can range from one to five times the maximum fine imposed on natural persons for criminal offenses, as stipulated in the relevant provisions. Additionally, the supplementary penalties, unlike those for natural persons, provide for restrictions that are tailored to the specific nature of the legal entity, including the closure of facilities, exclusion from public tenders, and judicial oversight. This distinction reflects the legal framework designed by the Algerian legislator to address environmental crimes committed by legal entities, ensuring that penalties are proportionate to the financial and operational capabilities of such entities.⁵⁷

Conclusion:

Through this study, we have concluded that the environment, in all its elements, faces daily severe risks and violations. It has thus become imperative for the law to intervene by establishing criminal liability to criminalize both positive and negative actions that harm the environment. The law must address these violations with its binding rules and effective regulations, keeping pace with societal progress and confronting the alarming consequences of technological advancements that threaten to create a future filled with damages and dangers.

From this research paper, we have reached several findings and recommendations:

- Environmental crime is behavior committed by a responsible person, whether a natural or legal person.
- The Algerian legislator has specifically assigned liability to private legal persons rather than public legal persons.
- The criminal liability system for natural persons regarding violations of environmental rights is divided into two parts: liability for personal actions and liability for the actions of others.
- Expanding the criminal liability system for environmental crimes to include those responsible for managing institutions.
- Despite the significant danger posed by environmental crimes to humans, the Algerian legislator views them as ordinary crimes, classifying them as misdemeanors and violations. Most penalties involve simple imprisonment or fines, and only in rare cases are they classified as felonies.
- The penalties of imprisonment are modest and do not correspond to the severity of the damage caused by environmental crimes. This leads to a lack of deterrence and fails to achieve the intended effect of punishment, as this leniency does not prevent the commission of these crimes or repeat offenses.
- The fines imposed are not proportionate to the extent of the harm caused or to the perpetrator of the harmful act.
- The difficulty in determining the liability of legal persons when committing environmental crimes.
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⁶ Kyoto Declaration on the Promotion of Crime Prevention and Criminal Justice and the Rule of Law: Towards Achieving the 2030 Agenda for Sustainable Development. 14th United Nations Congress on Crime Prevention and Criminal Justice, Kyoto, Japan, March 7-12, 2021. United Nations, New York, 2021, p. 1.

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