The Preventive Nature of Environmental Legislation in Algeria

الطبيعة الوقائية للتشريعات البيئية في الجزائر

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Abstract:

This study addresses the preventive nature of environmental legislation in Algeria**,** as one of the modern foundations for environmental protection. It examines the preventive legal principles established by the Algerian legislator, particularly in Law No. 03-10 on the protection of the environment within the framework of sustainable development, all of which aim to prevent environmental harm before it occurs. The study shows that Algerian environmental law has been influenced by international sources and seeks to keep pace with global developments in the field of environmental protection. However, the implementation of this preventive approach faces several challenges — some legislative, such as the multiplicity of texts and the weak binding force of legal provisions; and others practical, including the lack of environmental awareness, the decline of environmental citizenship, the limited role of civil society, and weak institutional coordination.

The study concludes that overcoming these challenges requires legislative and institutional reform to strengthen the effectiveness of the preventive system and to establish prevention as a fundamental tool for ensuring environmental protection and achieving sustainable development.

Keywords: Environmental legislation; Environmental protection; Preventive approach; Environmental harm; Law .

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Introduction :

Environmental protection is one of the most prominent contemporary issues receiving significant and growing attention from states, given its close link to national security and public order, and its strategic implications for public policies and international relations. This growing awareness has led to the adoption of modern approaches aimed at confronting the escalating threats targeting the environment in its comprehensive sense, encompassing natural elements and ecological components. This concern has translated into the organization of a series of international conferences, such as the Stockholm Conference held in 1972 and the Rio de Janeiro Conference in 1992, which resulted in the establishment of a set of legal principles binding on states, based primarily on a preventive approach, as an alternative to addressing environmental damage after its occurrence through compensation or remediation mechanisms.

These international developments have significantly influenced the legal orientations of countries, including Algeria. The Algerian legislature has enshrined this orientation in the constitution by enshrining the right to a healthy and clean environment and enacting a set of laws aimed at achieving effective environmental protection, particularly Law No. 03-10 concerning environmental protection within the framework of sustainable development, which has given a distinctly preventive character to the environmental legal system.

Study Problem:

The research problem stems from the importance of the preventive dimension of environmental legislation in Algeria, given that most environmental damage is difficult to remedy or repair once it occurs. This prompts the search for an answer to the following question: What are the manifestations of the preventive dimension of environmental legislation in Algeria? And to what extent is it effective in achieving effective environmental protection?

Study Methodology:

The study of the preventive nature of environmental legislation in Algeria employs an inductive approach, through the analysis of national and international legal texts concerned with environmental protection within the framework of sustainable development, especially Law No. 03-10.

Study plan :

This study is based on two main axes ; the first axis deals with the manifestations of the protective nature of environmental protection in Algerian legislation, while the second axis is dedicated to studying the difficulties of activating this nature in practical reality.

Firstly: Embodying the Preventive Nature of Environmental Protection in Environmental Legislation :

The Algerian legislator sought to enshrine effective environmental protection through a legislative framework dominated by prevention [1]. This was based on adopting the preventive dimension as a strategic option in confronting environmental

threats. This approach was clearly manifested in Law No. 03-10 concerning environmental protection within the framework of sustainable development, which is considered the first comprehensive legal framework to explicitly adopt the preventive approach as a central tool in national environmental policies. Article 2 of the aforementioned law affirmed this approach, stating that the primary objective of environmental protection is to activate the preventive aspect regarding all forms of pollution and damage that may affect the environment, through preserving its essential components. From this perspective, the Algerian legislator, in Article 3 of the same law, established a set of legal principles that consolidate this preventive character, reflecting the state's commitment to adopting proactive mechanisms aimed at preventing environmental damage before it occurs, rather than merely addressing its consequences afterward.

1. First subtitle:

The principle of preventive action and correcting environmental damage at its source is a fundamental pillar adopted by the Algerian legislator within the framework of Law No. 03-10 concerning environmental protection within the context of sustainable development. Article 3 of this law explicitly stipulates this principle, requiring the use of the best available technologies with acceptable economic viability [2], while taking into account the interests of others, before undertaking any activity that may cause serious environmental damage. This principle constitutes a legal obligation incumbent upon every natural or legal person whose activity may have a potentially negative environmental impact.

The principle of preventive activity - in essence - aims to prevent environmental damage before it occurs, by adopting effective proactive measures that are applied during the planning or project implementation phases to ensure the preservation of environmental balance. In this sense, scientific certainty is not required to impose protection measures, but rather the existence of serious possibilities of environmental damage is sufficient to take the necessary preventive measures. In some cases, the matter may reach the point of temporarily or permanently prohibiting the activity or product in question, in order to avoid damage to the environment that cannot be remedied or repaired.

This principle is based on a preventive legal philosophy that emphasizes responsibility before a harmful act occurs. It rejects the notion that the absence of conclusive proof of the non-hazardous nature of an activity or product justifies the failure to take protective measures. This highlights the proactive nature of the principle, which represents a qualitative development in environmental legal thought.

Legal scholars differ on the historical origins of the preventive action principle. Some believe it originated in certain positive legislations as early as the 1970s. A broad trend in legal scholarship traces its roots to the Final Declaration of the 1972 Stockholm Conference, where it was mentioned among the fundamental principles of the environment. It was later enshrined more explicitly at the 1992 Rio de Janeiro Conference [3]and through several subsequent international agreements. At the national

level, the Algerian legislator has incorporated this principle into numerous legal applications through the provisions of Law No. 03-10, whether in the area of environmental impact assessment, the licensing requirements for industrial activities, or the regulation of the handling of certain materials and wastes with potential environmental hazards. This reflects a clear legislative will to adopt prevention as a fundamental means of environmental protection.

1.1. Setting Environmental Standards:

The State bears a legal obligation to regulate the maximum permissible values of pollutants, and to set alert levels and quality targets, particularly with regard to basic environmental elements such as air, water, and subsoil. This obligation includes determining the measures to be taken in special cases or situations that may indicate an imminent threat to the ecological balance or public health[4]. In the same context, the State is committed to ensuring the preservation of biological balances and the protection of ecosystems and natural resources from various forms of degradation and depletion, through the adoption of a set of legislative, regulatory, and practical measures aimed at ensuring the sustainable protection of the environment, within the framework of a comprehensive approach based on anticipation and prevention, in accordance with the principles of contemporary environmental law[5].

1.2. Environmental Impact Assessment System for Development Projects:

The Algerian legislator has established a legal mechanism aimed at activating the preventive dimension in environmental protection. This is achieved by obligating development projects, permanent structures and facilities, as well as factories and technical works[6] , to undergo a prior environmental impact assessment or an impact brief, depending on the nature and severity of the project. This obligation also includes all construction and urban development works and programs that could affect the environment, whether directly or indirectly, particularly those that may harm natural resources, ecological spaces, ecological balances, or affect the quality of life.

This principle was embodied more precisely through a set of special legal texts that dealt with the technical and technological aspects related to the prevention of environmental risks, such as the provisions relating to preventive measures against the dangers resulting from the handling of some hazardous or radioactive materials, or those relating to major risk prevention works, or industrial pollution, so that these mechanisms show the extent to which the legislator sought to establish an integrated environmental legal system based on the prior assessment of risks and preventive intervention to avoid them before they occur, in order to strengthen the precautionary principle and achieve the goals of sustainable development[7].

2. The Precautionary Principle:

The precautionary principle is a fundamental principle in environmental protection. It requires public authorities to take effective and appropriate preventive measures to address potential environmental hazards, even in cases where science has not yet reached complete certainty regarding the nature or likelihood of those

hazards. These measures must be proportionate in their impact and justified by their acceptable economic cost. The absence of current scientific or technological knowledge is not a valid excuse for delaying preventive intervention.

2.1. Manifestations of the Precautionary Principle :

The first manifestations of the precautionary principle appeared within some national legislations, most notably German legislation, before this principle found its way into international environmental law. It was alluded to indirectly in the Stockholm Declaration of 1972, and then explicitly enshrined in the Rio Declaration of 1992, through Principle 15, which stipulated the need for states to take extensive precautionary measures, commensurate with their capabilities, to address the risk of serious or irreversible damage, while emphasizing that the absence of complete scientific certainty should not be used as an excuse to delay taking effective and economically viable measures to prevent environmental degradation[8].

Given the paramount importance of the precautionary principle in environmental protection, it has been widely adopted in a significant number of international agreements and global declarations. It is enshrined either explicitly or implicitly through the adoption of preventive measures that are characteristic of this principle. The application of the precautionary principle in the international context has extended to other fields no less important than the environmental sphere, including public health, the economy, and trade, given the interconnected links between these sectors and the environment.

2.2. The Importance of the Precautionary Principle :

The importance of this precautionary principle lies in its representing a qualitative shift in environmental legal thought. Previous preventive approaches relied on conclusive scientific proof of risk before initiating any action, which limited the capacity of public authorities.

While proactive responses to environmental hazards are essential, the evolving environmental landscape, characterized by rapid changes and complex interplay of natural interactions, has necessitated the adoption of the precautionary principle as a legal tool. This allows for precautionary measures to be taken even in the absence of conclusive scientific evidence, thus preventing potentially irreversible environmental damage[9].

This principle is crucial for a proactive response to environmental risks. This legal approach is justified by the fact that the human mind, however advanced, remains incapable of keeping pace with and understanding all the complex and rapid environmental changes, which could lead to irreversible environmental disasters later on. Therefore, adopting the precautionary principle is a legal and practical necessity to ensure early and effective intervention to avert danger before it occurs and to reduce the likelihood of irreversible environmental damage. This conceptual and applied expansion of the precautionary principle has influenced national legislation, including the Algerian legal system, which has responded to this dynamic by explicitly or implicitly including this principle in several legal texts. This is

particularly evident in the Law on the Prevention of Major Risks and Disaster Management within the Framework of Sustainable Development[10], as well as in the Consumer Protection Law[11], where a precautionary approach has been adopted aimed at protecting individuals and the environment from potential risks before they materialize[12].

It is worth noting that the precautionary principle often overlaps in its content and function with the principle of preventive action, as both share the fundamental goal of preventing environmental damage. However, the difference between them lies in their scope of application. The precautionary principle is based on confronting dangers that cannot be definitively perceived in light of available scientific knowledge, and justifies intervention despite the absence of conclusive evidence, while the preventive action principle is activated when harm is possible or actually occurring, and is concerned with taking measures to prevent its occurrence or mitigate its effects according to a realistic assessment of risks[13].

3. The Principle of Information and Participation :

The principle of information and participation is classified among the fundamental principles that reinforce the preventive dimension in the field of environmental protection and security. This is due to its effective role in enhancing environmental awareness among individuals and activating their engagement in the overall process of environmental protection. Furthermore, this principle is one of the essential mechanisms that ensure transparency and strengthen community oversight of decisions with environmental impact.

3.1. The Content of the Principle of Information and Participation :

The principle of information and participation enshrines the right of every individual to access environmental information concerning the state of the environment and its risks. It also guarantees their right to participate in the preliminary procedures related to public decision-making that may have a potential impact on the environment, particularly concerning development projects or public policies with an environmental dimension. This right is based on the understanding that community involvement in the environmental process is a fundamental guarantee for the effectiveness of preventive measures and the sustainability of their outcomes.

The principle of information and participation is based on ensuring the dissemination and availability of scientific facts and data related to the environment through various media and communication channels. This aims to raise environmental awareness among individuals and groups, contributing to the achievement of sustainable development goals. This principle is manifested in enabling the public to access relevant environmental information and facilitating their participation in public debate on policies and activities with environmental impact. It also includes a consultative aspect, which involves strengthening cooperation and coordination between state bodies, on the one hand, and between them and citizens or their civil organizations, on the other, regarding the exchange of environmental information related to the establishment or non-establishment of projects that may

pose a threat to environmental safety. In this sense, information and participation are not limited to providing information, but extend to empowering society to influence environmental decisions, which constitutes one of the fundamental pillars of drastic environmental governance[14].

3.2. The Emergence of the Principle of Information and Participation :

The principle of information and participation emerged within the development of international environmental law as a response to the increasing deterioration of global environmental conditions. It was enshrined in several international conferences and agreements held during various stages of global environmental awareness. The 1972 United Nations Conference on the Environment in Stockholm is considered a foundational moment for this principle. The Conference's Final Declaration, particularly Principle 19, explicitly called for the development of environmental education, public awareness, and raising awareness among individuals, institutions, and groups about their responsibilities in protecting and promoting the environment[15].

This trend was reinforced in the 1992 Rio de Janeiro Declaration, which emphasized in Principle 10 that the best way to address environmental issues is through ensuring the effective participation of all concerned citizens. This principle also stipulated the need to empower every individual with the right to access environmental information held by public authorities, especially information related to hazardous activities, as well as the right to participate in decision-making processes with environmental impact. The Declaration also

urged states to take measures to encourage public participation and ensure the transparency of environmental information through making this information readily available underscores the fact that informed community participation is a fundamental pillar for achieving effective and sustainable environmental protection[16].

The Algerian legislator has kept pace with international trends related to the principle of information and participation in the environmental field, and has sought to integrate it into the national legal framework. This reflects an understanding of the essential role of this principle in achieving environmental governance and enhancing preventive effectiveness in environmental protection. National legislation, particularly Law No. 03-10 concerning environmental protection within the framework of sustainable development, includes several provisions that enshrine this principle. These provisions emphasize that among the general objectives of environmental protection are strengthening environmental information, intensifying awareness-raising efforts, and ensuring the participation of the public and all stakeholders in taking appropriate environmental measures[17].

The Algerian legislator has included environmental information and the participation of individuals and associations among the tools for environmental management, considering them essential means to support public and community intervention in the environmental field. The first chapter of the second section of the same law is dedicated to environmental information, stipulating the establishment of

a comprehensive and integrated system for this purpose. This system is responsible for collecting environmental information from public and private entities and for creating networks to exchange this information[18]. It includes the development of databases for general environmental information, whether scientific, technical, statistical, or financial, provided that this data contains accurate and reliable information. This measure aims to enable individuals, civil society organizations, and various stakeholders to access accurate environmental information, thereby enhancing their ability to participate effectively in evaluating policies and projects with environmental impact, and establishing a participatory environmental culture based on transparency and collective responsibility[19].

The Algerian legislator enshrined the right to environmental information through a dual approach comprising two complementary levels. The first level is the public right to environmental information, which grants every natural or legal person the right to obtain, upon request, information concerning the state of the environment from the competent authorities. This right includes all available data on relevant environmental elements, with the aim of enabling individuals to contribute effectively to environmental protection and assess the risks threatening it[20]. The second level pertains to what is known as the private right to environmental information, which imposes an obligation on every person, whether natural or legal, who possesses information related to environmental elements or components that could directly or indirectly affect public health, to report this information to the authorities.

The right to information is communicated to the local authority or the relevant environmental body. This level embodies a responsible dimension of the principle of information, as it extends beyond the right to access information to include the duty to disseminate it when necessary, thus strengthening prevention and reinforcing the precautionary principle[21].

The Algerian legislator has established a set of practical procedures to activate the principle of information and participation. These procedures include regulating the right of access to environmental information, particularly information related to environmental risks, whether natural or technological, that may threaten certain residential areas or economic activities. Emphasis is placed on the necessity of informing the individuals concerned about these risks and the relevant preventive measures. These mechanisms fall within a comprehensive vision aimed at empowering citizens to play both a monitoring and preventive role, thereby enhancing the dynamics of participatory environmental governance[22].

These mechanisms are part of a broader vision that aims to empower citizens to play both a monitoring and preventive role simultaneously, thereby strengthening the dynamics of participatory environmental governance.

Secondly : Difficulties in Activating the Preventive Approach to Environmental Protection :

Through the first section, we concluded by emphasizing the paramount importance of the preventive approach in environmental legislation as a fundamental

mechanism for environmental protection. This was achieved by reviewing the essential legal principles framing this orientation, as well as highlighting the efforts of the Algerian legislator in keeping pace with international developments in this field, through the adoption of a set of legal texts and practical procedures aimed at activating the preventive dimension and enhancing its effectiveness in environmental protection. However, the activation of this preventive approach actually faces a number of difficulties and obstacles that prevent the achievement of the desired goals of establishing this approach in the environmental legal system.

1. Challenges Associated with Environmental Legislation:

Environmental legislation is concerned with protecting the environment in all its natural and human components. It is distinguished from other branches of law by its comprehensive and synthetic nature, as it intersects with many other legal fields such as administrative law, criminal law, and economic law. This gives it a distinctive character and simultaneously makes it linked to and dependent upon these other fields. This unique character of environmental legislation stems from its heavy reliance on international sources, which represent its most prominent tributaries and sources of inspiration. This reflects its integration into the global environmental system and its commitment to the principles of international environmental law.

Despite the functional and conceptual advantages of this legislation, its practical application encounters a number of challenges and obstacles that hinder the achievement of its objectives, whether in terms of environmental protection or achieving sustainable development. These difficulties manifest themselves in legal, institutional, and practical aspects, necessitating an analytical examination to identify the shortcomings and propose effective ways to implement this legislation.

1.1. The Variation and Generality of Environmental Legislation:

Despite the crucial importance of environmental legislation in achieving the goals related to environmental protection, assessing its effectiveness in the Algerian context—compared to the experiences of leading countries in this field—reveals that national environmental legislation remains below expectations in terms of achieving comprehensive and effective protection. This deficiency stems primarily from structural and functional problems inherent in the environmental legislation itself, necessitating highlighting two key points that constitute major obstacles in this regard.

1.1.1. Lack of Unified Environmental Legislation in a Single Code :

Despite the efforts made by the Algerian legislator to adapt to the specificities of environmental legislation by adopting a comprehensive approach based on establishing general provisions for the protection of various environmental components, as exemplified by Law No. 03-10 concerning environmental protection within the framework of sustainable development, and while considering an integrated approach to protection, the traditional approach of including protection provisions within specific legislation addressing particular sectors (water protection, air, waste, coastal areas, etc.) has not been abandoned.

This overlap between general provisions and specific sectoral legislation has led to a kind of fragmentation within the environmental legal framework, negatively impacting the effectiveness of legal texts in this area, both in terms of their clarity and their consistent and coherent application. Consequently, it can be argued that this multiplicity of texts, without effective coordination between different legislative levels, has affected the efficacy of the environmental legal framework and undermined its ability to achieve the intended comprehensive protection of the environment[23].

One of the structural problems plaguing environmental legislation is the broadening and evolving concept of legal environmental protection. This complicates the task of establishing stable and comprehensive legal rules. The concept of the environment is inherently dynamic and changeable[24], and the areas covered by environmental protection are constantly evolving in response to scientific, technological, and economic transformations worldwide. This makes it difficult to encompass all dimensions and areas of this protection within a unified and integrated legal framework. Furthermore, the sheer number of texts related to regulating activities that impact the environment often leads to contradictions or overlaps in provisions and a lack of consistency in their content, weakening their legal and practical effectiveness. This problem is particularly evident in the reliance of most environmental provisions on executive decrees issued with a narrow, sectoral approach. This undermines the integrative dimension of environmental legislation and negatively impacts access to environmental information for individuals and organizations, which is crucial for implementing the preventive principle and fostering effective participation. In protecting the environment.

Environmental legislation suffers from an additional problem: conceptual ambiguity and terminological overlap, particularly concerning the definition of "environment" itself, the areas of protection it encompasses, and the legal and institutional mechanisms capable of achieving that protection. This is partly due to the specialized technical nature of environmental legislation, which seeks to combine legal rules with precise scientific data. This poses additional challenges in terms of drafting, interpretation, and implementation, ultimately affecting the effectiveness of this legislation in shaping sound environmental behavior and ensuring respect for ecological balances[25].

1.1.2. Failure to Update Environmental Protection Principles to New Developments in the Environmental Reality :

In discussing the difficulties associated with environmental legislation, a fundamental issue emerges: the failure to update general environmental protection principles to keep pace with the rapid developments and transformations occurring globally, particularly in areas closely related to the environment. Despite remarkable advancements in scientific knowledge and technological innovation, and the introduction of new concepts such as the green economy, low-carbon development, and energy transition, the fundamental principles framing environmental legislation,

both in terms of texts and policy orientations, have not adequately kept up with these transformations. This conceptual and legislative stagnation leads to a gap between the reality of contemporary environmental problems and the national legal framework that is supposed to address them. This weakens the ability of this legislation to respond to new environmental challenges. This deficiency is particularly evident in the absence of periodic amendments to the foundational legal principles and the slow adoption of legal instruments arising from international experiences or imposed by multilateral environmental agreements. Consequently, developing national environmental legislation necessitates a review of its general framing principles and their periodic updating in light of emerging scientific, economic, and environmental data, thus ensuring A better alignment between legal texts and the changing environmental reality, enhancing the effectiveness of the precautionary principle in environmental protection[26].

1.2. Weak Binding Force of Preventive Principles for Environmental Protection :

The environmental legislative system has witnessed significant development at both the international and national levels, becoming distributed across multiple fields and subject to the jurisdiction of diverse bodies at both the central and local levels. Despite the apparent abundance of legislation, this multiplicity of legal rules and their dispersal across different levels and fields has itself constituted one of the most prominent factors contributing to the emergence of practical and theoretical difficulties, particularly concerning the activation of general principles for environmental protection, especially those of a preventive nature. Environmental law has been affected by the weak binding force of general principles in the environmental field, as many of these principles continue to be discussed in legal and policy discourse without being accompanied by effective implementation mechanisms or deterrent penalties that would give them the necessary binding character. This further exacerbates the situation.

The complexity of this situation lies in the fact that most environmental legal texts—despite their abundance—have failed to achieve the desired level of environmental protection. This is due to a lack of proportionality between the severity of environmental crimes and the prescribed penalties. In many cases, the penalties stipulated in environmental laws do not reflect the extent of environmental damage resulting from the offending behaviors, whether in the short or long term. This undermines the deterrent effectiveness of the environmental penal system and jeopardizes its preventive objectives. Therefore, a review of the penal policy in the environmental field has become an urgent necessity. This review should involve reclassifying criminal acts to align with their environmental severity and adjusting penalties accordingly to ensure effective protection of environmental components and ecosystems[27].

In addition to the aforementioned legislative and institutional difficulties hindering the effectiveness of environmental legislation, another particularly

important issue concerns the shortcomings of the legal framework for preventive civil liability, especially regarding the grounds for claiming compensation for potential environmental damage. This framework lacks a clear and precise legal basis upon which the affected party can rely to claim redress, particularly in cases where damage has not yet materialized but is merely potential as a result of an activity with a questionable environmental impact. This issue is further complicated by the difficulty of assessing compensation, given the specific nature of environmental damage, which is often indirect, multidimensional, or delayed in its manifestation. Moreover, establishing a causal link between the intended act or activity and the potential environmental damage presents a highly complex challenge due to the interplay of factors and the multiplicity of influences inherent in environmental activities[28].

The current system of environmental civil liability, in its preventive aspect, falls short of the desired level of protection. This necessitates a thorough review of its legal foundations, enshrining the precautionary principle as the basis for proactive compensation and expanding the scope of proof of damage to include future and potential environmental harm, in light of the development of relevant scientific and jurisprudential standards.

2. Difficulties Related to the Application of Environmental Legislation:

In addition to the aforementioned legislative and institutional difficulties, a number of problems also arise related to the practical application of environmental legislation, particularly concerning the activation of its preventive aspects. In this context, two key elements hindering the desired effectiveness of this legislation can be identified: weak environmental citizenship and the limited role of civil society in environmental protection.

2.1. Weak Environmental Citizenship :

The concept of environmental citizenship is a modern one, born out of increasing environmental challenges. It refers to a conscious and responsible behavioral pattern embodied in environmentally friendly practices in both private and public life.

Stemming from an individual and collective conviction of the necessity to protect and preserve the environment as a shared interest between the present and the future, transcending the geographical and political boundaries of nations. This concept aims to establish a deep environmental awareness that strengthens the global dimension of citizenship and motivates individuals to actively and responsibly address environmental challenges affecting all of humanity, without temporal or spatial distinctions. Therefore, environmental citizenship embodies an individual and collective sense of belonging to the environment, stemming from an awareness of existing environmental problems and accompanied by a willingness to participate in environmental decision-making. This participation is based on the citizen's understanding of their rights and responsibilities in this area, and this awareness contributes to activating the individual's role as a conscious environmental actor,

capable of contributing to the formulation of public policies that take into account the requirements of sustainable development.

The concept of environmental citizenship has evolved in light of escalating global environmental crises, prompting the international community to advocate for its adoption as a guiding principle in numerous international conferences and conventions, most notably the 1992 Rio Declaration. Principle 22 of the Declaration states that "Indigenous peoples and their communities, and other local communities, have a vital role to play in the management and development of the environment, given their traditional knowledge and practices." The Declaration further recommends that states recognize, support, and empower these groups to participate effectively in achieving sustainable development.

Environmental citizenship has found its way into the national legislation of many countries, which now include the right to a healthy and pollution-free environment within the framework of collective rights and solidarity. This trend reflects a growing awareness of the importance of the environment as a cornerstone of human security and sustainable development. In this context, some countries have enshrined this right in their constitutions and domestic laws, as is the case in Algeria. Article 2 of Law No. 03-10 on Environmental Protection within the Framework of Sustainable Development stipulates that raising awareness and ensuring the active participation of the public and all stakeholders in environmental protection are among the fundamental objectives of environmental legislation[29].

Practical reality has revealed a number of obstacles that prevent the effective implementation of the principle of environmental citizenship, which constitutes a real impediment to achieving effective community participation in environmental protection, despite the principle's theoretical foundation. Among the most prominent of these problems is the difficulty individuals face in resorting to the judiciary in environmental disputes, given the unique nature of this type of dispute, which is often linked to collective or future damages, making it difficult to determine the rightful party and their interest. This leads to a narrowing of the scope of litigation and deprives many affected parties of the possibility of effective legal action[30]. In addition, there are difficulties related to obtaining environmental information, as requests from individuals or environmental associations are often rejected under the pretext of protecting the principle of administrative confidentiality.

This contradicts the requirements of transparency and the right to information, which are fundamental pillars in establishing responsible environmental citizenship[31].

It is noteworthy that legal texts enshrining citizens' right to environmental protection are often characterized by ambiguity and inadequacy, both in their wording and in the precise definition of procedures and responsibilities. This ambiguity has led to granting the administration broad discretionary power in pivotal matters, including the appointment of members of committees and advisory councils, the determination of those responsible for information and participation, and the organization of public meetings that are supposed to provide spaces for consultation

and expression of opinion. This unchecked expansion of administrative discretion, in the absence of clear legal guarantees, has resulted in the lack of a stable foundation for public participation and a wide margin for administrative interpretation and application. In many cases, this has led to arbitrary practices that undermine the essence of the principle of participation and reinforce the centralization of administrative decision-making at the expense of community action[32].

2.2. The Shortcomings of Civil Society's Role :

Achieving the Sustainable Development Goals (SDGs) cannot be accomplished without establishing clear and comprehensive legal frameworks that enshrine the principle of public participation as a cornerstone of good environmental governance. Involving citizens, alongside public authorities, in the development and implementation of development policies is essential to ensuring their effectiveness, social legitimacy, and the sustainability of their environmental and institutional impacts. Therefore, the participation of environmental associations in environmental decision-making processes is a practical embodiment of good governance, which aims to achieve greater efficiency in public affairs management and enhance transparency and public acceptance of environmental policies and related legislation. Furthermore, the involvement of these associations in this context is a fundamental pillar for establishing environmental democracy and activating mechanisms for community participation in protecting natural resources and achieving sustainable development.

The establishment of environmental associations and their contribution to environmental protection are recognized as fundamental human rights and freedoms, both in international law and national legislation. At the international level, Article 24 of the 1972 Stockholm Declaration affirms the need for every individual, individually or collectively, to strive to achieve the principles enshrined in the Declaration. Similarly, the 1992 Rio Declaration, specifically Principle 22, emphasizes the vital role of associations in environmental management and development, calling upon states to recognize and promote this role. This approach has been reflected in domestic legislation, including Algerian Law No. 03-10 concerning environmental protection within the framework of sustainable development[33], which dedicates a specific chapter to environmental associations, regulating their participation in environmental protection.

The law grants accredited associations the right to contribute to and participate with public bodies in the preparation and implementation of environmental policies, and to provide feedback and suggestions, thereby strengthening civil society's involvement in the national effort to protect the environment and conserve natural resources.

In the context of enshrining the principle of community participation within the environmental system, the Algerian legislator, under Law No. 03-10 concerning environmental protection within the framework of sustainable development, defined

the general framework for the contribution of environmental associations to environmental protection through three areas.

2.2.1. Assistance, Opinion, and Participation :

Article 35 of Law No. 03-10 stipulates the possibility of environmental associations contributing to environmental protection through expressing opinions, participating, and providing assistance. However, the text does not specify the nature of this participation or the mechanisms for its implementation, leading to legislative ambiguity that has opened the door to broad administrative discretion. Although some sectoral laws have guaranteed the participation of these associations in certain matters, such as proposing the appointment of members, submitting proposals or environmental studies, or attending in an advisory capacity within relevant bodies, this contribution remains limited in terms of impact and effectiveness.

Several obstacles hinder the effectiveness of this participation, including the ambiguity of the governing legal texts, which sometimes perpetuates inconsistent administrative practices. Furthermore, the weak representation of environmental protection associations within relevant official bodies reduces their ability to effectively influence environmental decisions. Added to this is the deficiency in the human resources of these associations, as the law governing associations does not require specialized scientific or technical qualifications for their members, thus weakening their capacity to engage in effective scientific and technical discussions on complex environmental issues.

2.2.2. Media and Awareness :

Environmental associations play a pivotal role in disseminating environmental culture and promoting collective awareness of environmental risks. This is achieved through the use of various media outlets to transmit information, organize awareness campaigns, hold seminars, and distribute environmental publications. They also organize field activities and actively participate in local and national environmental events. In this context, associations act as intermediaries between administrative bodies and citizens by redistributing collected environmental information and contributing to the revitalization of the public environmental sphere.

2.2.3. The right to resort to the judiciary :

The Algerian legislator enshrined the right of legally accredited associations to resort to environmental courts, as stipulated in Article 36 of Law 03-10, which authorized environmental associations to file lawsuits regarding any harm to the environment, even in cases where their members are not personally and directly harmed. Article 38 of the same law also granted these associations the right to file a claim for compensation before any judicial body, in their own name, if they were authorized by two natural persons who were harmed by a legislative or regulatory violation affecting the environment or the living environment.

Despite these granted powers, the effectiveness of environmental associations in practice remains limited due to challenges related to organizational, financial, and human capacities, as well as procedural and bureaucratic obstacles they face when

pursuing litigation or obtaining environmental information. Although legal acceptance of establishing environmental associations and empowering them to defend collective environmental interests has expanded, the reality of environmental advocacy remains weak in terms of implementation and practice. This is due to a range of structural and functional factors. The general nature of most environmental associations remains fundamentally voluntary, which negatively impacts their level of dedication and professionalism, and weakens their capacity for legal advocacy or effective initiatives in defending environmental issues. These associations also face a severe shortage of financial resources, a fundamental issue that limits their ability to implement programs and initiatives or to establish organized and systematic collective environmental action.

The weakness in institutional coordination among environmental associations themselves is evident, stemming from the fragmentation of their activities and the diversity of their areas of intervention. This negatively impacts their ability to build effective alliances or formulate unified positions on major environmental issues. Furthermore, the absence of organized cooperation mechanisms between them and other civil society actors reduces the opportunities for building broader networks of influence that contribute to expanding the scope of environmental action and enshrining community participation in the formulation and implementation of environmental policies. Therefore, overcoming these challenges requires a serious review of the framework for supporting environmental civil society, whether through strengthening public and private funding for associations or through enacting regulatory legislation that incentivizes coordination and encourages networking, thereby enhancing the effectiveness of civil society as a complementary pillar to the state's efforts in environmental protection and achieving sustainable development.

Conclusion :

The preventive nature of environmental legislation is one of the fundamental pillars of the contemporary legal system for environmental protection. It reflects a fundamental shift in the philosophy of environmental legislation from a logic of remediation and compensation to one of proactive prevention, in line with the outcomes of international agreements and declarations in this field, most notably the Stockholm Declaration of 1972 and the Rio Declaration of 1992.

Our analysis shows that the Algerian legislator has adopted this preventive approach by enshrining the right to a healthy environment in the constitution and enacting Law No. 03-10 concerning environmental protection within the framework of sustainable development. This law includes a set of legal principles of a preventive nature, primarily the principle of prevention, the precautionary principle, the principle of information and participation, and the principle of responsibility. These principles aim to develop an integrated system that places the environment at the heart of public policy concerns and obliges individuals and institutions to adopt environmentally responsible behavior. Despite this legislative progress, the implementation of the preventive dimension of environmental legislation in Algeria still faces a number of

structural and functional challenges, particularly regarding legal texts, which suffer from fragmentation, ambiguity, and weakness. Updating, or at the application level, is hampered by limited technical and human resources.

In addition to the weak environmental culture and environmental citizenship among individuals, there is a lack of effective coordination among various stakeholders, including civil society, whose contribution to environmental protection remains below expectations.

Recommendations:

In conclusion, this research paper proposes the following:

- **Reviewing and updating the environmental legislative framework**: a comprehensive review of existing environmental legislation is necessary, particularly Law No. 03-10, to align it with scientific and technological advancements and modern concepts in the field of preventive environmental protection, and to enhance the clarity and consistency of the texts.

- **Strengthening the mandatory nature of preventive principles:** the mandatory nature of preventive environmental legal principles, especially the precautionary and preventive principles, must be reinforced by linking them to strict monitoring procedures and effective penalties commensurate with the severity of environmental damage.

- **Establishing effective mechanisms for implementing the principle of information and participation :** activating the right to environmental information by creating national digital platforms that provide up-to-date and open environmental data to the public, and defining clear procedures for the participation of individuals and associations in environmental decision-making.

- **Improving the performance of environmental associations :** providing technical and financial support to environmental associations by establishing public funding mechanisms, ensuring transparency in their financing, and providing specialized training for their members, while also reviewing the accreditation requirements for associations to guarantee efficiency and effectiveness.

- **Strengthening coordination among various stakeholders** : establishing an independent national environmental coordination body comprising representatives from ministries, local authorities, civil society, and the private sector, to coordinate preventive policies and unify efforts among the various stakeholders.

- **Strengthening environmental education and environmental citizenship**: integrating environmental education into educational curricula at all levels and organizing regular national awareness campaigns to instill the values of environmental citizenship and individual and collective responsibility.

- **Facilitating access to environmental justice :** simplifying environmental litigation procedures, expanding the capacity to file environmental lawsuits, and training judges specializing in environmental disputes to ensure the effectiveness of legal proceedings related to pollution or damage to natural resources.

- **Adopting stimulating economic and legal tools:** developing incentive mechanisms such as tax exemptions or financial support for institutions and investors that comply with preventive environmental standards, in addition to imposing deterrent financial penalties on practices harmful to the environment.

Margins:

[1]. Environmental legislation is a set of legal rules of a technical nature that regulate human activity in relation to the environment. It defines prohibited activities that disrupt the balance between the environment's components and the resulting consequences. Among the most important sources of environmental legislation are international agreements, resolutions of international conferences and organizations, national laws, custom, jurisprudence, judicial precedent, and general principles of law. Environmental legislation is characterized by several features: it is relatively new, uncodified, technical in nature, unstable, and multifaceted. It also has a mandatory regulatory character. Furthermore, environmental legislation is closely linked to other branches of law, such as administrative law, criminal law, and economic law. (Source : Boussadia Raouf, "The Preventive Nature of Environmental Legislation," Journal of Rights and Freedoms, Volume 10, Issue 1, Mohamed Khider University, Biskra, Algeria, April 2022, p. 1278.)

[2]. Article 03 of Law No. 03-10, dated July 19, 2003, relating to the protection of the environment within the framework of sustainable development, Official Gazette, No. 43, issued on July 20, 2003.

[3]. Mohamed Safi Youssef, A Study within the Framework of International Environmental Law, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2008, p. 23.

[4]. Article 10 of Law No. 03-10, cited above.

[5]. Article 11 of Law No. 03-10, cited above.

[6]. Article 21 of Law No. 03-10, cited above.

[7]. Boufalja Abdelrahman, "The Preventive Aspect in the Environmental Field in Light of Algerian Legislation," Journal of Law and Political Science, Volume 4, Issue 1, Institute of Law and Political Science, University Center of Salhi Ahmed, Naâma, Algeria, January 2018, p. 97.

[8]. Boufalja Abdelrahman, "The Preventive Aspect in the Environmental Field in Light of Algerian Legislation," ibid., p. 96.

[9]. Khaled Abdelaziz, The Precautionary Principle in the Environmental Field, Master's Thesis, Faculty of Law, University of Algiers 1, 2015, p. 15.

[10]. Law No. 24-04, dated February 26, 2024, containing rules for prevention, intervention, and reduction of disaster risks within the framework of sustainable development, Official Gazette, No. 16, issued on March 6, 2024.

[11]. Law No. 09-03, dated February 25, 2009, relating to consumer protection and the suppression of fraud, Official Gazette, No. 15, issued on March 8, 2009, amended and supplemented by Law No. 18-09, dated February 25, 2018, Official Gazette, No. 35, issued on June 13, 2018.

[12]. Khaled Abdelaziz, The Precautionary Principle in the Environmental Field, op. cit., p. 33. Boussadia Raouf, The Preventive Nature of Environmental Legislation, previous reference, p. 1282.

[13]. Boussadia Raouf, The Preventive Nature of Environmental Legislation, previous reference, p. 1282.

[14]. Boufalja Abdelrahman, Preventive Measures in the Environmental Field in Light of Algerian Legislation, op. cit., p. 101.

[15]. Wanas Yahia, Legal Mechanisms for Environmental Protection in Algeria, PhD dissertation in Public Law, Faculty of Law and Political Science, Abou Bekr Belkaid University, Tlemcen, Algeria, 2007, p. 15.

[16]. Medjaji Mansour, Environmental Media as a Tool for Embodying the Preventive Approach in the Field of Environmental Security and Protection in Algerian Legislation, Journal of Legal and Social Sciences, Volume 4, Issue 2, Ziane Achour University, Djelfa, Algeria, June 2019, p. 108.
[17]. Article 2 of Law No. 03-10, cited above.
[18]. Article 5 of Law No. 03-10, cited above.
[19]. Article 6 of Law No. 03-10, cited above.
[20]. Article 7 of Law No. 03-10, cited above.
[21]. Article 8 of Law No. 03-10, cited above
[22]. Article 9 of Law No. 03-10, cited above.
[23]. Boussadia Raouf, The Preventive Nature of Environmental Legislation, op. cit., p. 1286.
[24]. Qattal Jamal, Akbaoui Salma, Obstacles to the Effective Protection of the Natural Environment within the Framework of National Bodies and Mechanisms for Reducing Them, Al-Ijtihad Journal for Legal and Economic Studies, Vol. 9, No. 2, Institute of Law and Political Science, University Center of Tamanrasset, Algeria, January 2020, p. 90.
[25]. Ammar Al-Turkawi and Muhammad Samer Ashour, Environmental Legislation, Syrian Virtual University Publications, Syrian Arab Republic, 2018, p. 4.
[26]. Boussadia Raouf, The Preventive Nature of Environmental Legislation, op. cit., pp. 1287-1288.
[27]. Jamal Qattal and Salma Akbaoui, "Obstacles to Effective Protection of the Natural Environment within the Framework of National Bodies and Mechanisms for Reducing Them," op. cit., p. 91.
[28]. Raouf Boussadia, "The Preventive Nature of Environmental Legislation," op. cit., p. 1289.
[29]. Article 64 of Presidential Decree No. 20-442, dated December 30, 2020, containing the constitutional amendment approved in the referendum of November 1, 2020, Official Gazette, No. 82, issued on December 30, 2020.
[30]. Hiba Hamza, Benkada Mohamed Amine, The Effectiveness of the Principle of Prevention for Environmental Protection before Civil and Criminal Courts, Journal of Real Estate and Environmental Law, Volume 8, No. 14, Abdelhamid Ben Badis University, Mostaganem, Algeria, January 2020, p. 167.
[31]. Ziad Leila, Citizen Participation in Environmental Protection, Master's Thesis in Law, Faculty of Law, Mouloud Mammeri University, Tizi Ouzou, Algeria, 2010, p. 131.
[32]. Ziad Leila, Citizen Participation in Environmental Protection, ibid., p. 130.
[33]. Article 35 of Law No. 03-10, ibid.