

Legal Protection for the Environment in Jordan and the United Arab Emirates: Comparative Outline

Dr. Abdelnaser Zeyad Hayajneh

Associate Professor

The University of Jordan- Law School

a.hayajneh@ju.edu.jo

Abstract

This study attempts to review the legal frameworks applied to protect the environment both in the Hashemite Kingdom of Jordan, and the United Arab Emirates. In a comparative approach, the study also attempts to outline the main trends and rules toward the protection of the environment in the Jordanian and Emirati Environmental legislations. It also highlights the advantages and disadvantages in both environmental protection legal frameworks. This comparison will certainly assist both legislators in Jordan and UAE to amend and improve the national legal framework dedicated to the protection of the environment.

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Introduction

Protection of the environment is crucial issue not only to achieve development, but also to maintain this development and enhance welfare and human life quality. Environment in Jordan and in the United Arab Emirates placed itself on the top of states’ agenda during the last two decades. Despite the fact, that Jordan and UAE share some commons such as being a Middle East Arab countries situated in west Asia, each of them has its own strategy to achieve sustainable development. With strength here and weakness there, comparison between Jordanian and the Emirati approaches in the field of environmental protection has its significance to the benefit of legislators and decision-makers in both countries.

1. Brief background

Hashemite Kingdom of Jordan and the United Arab Emirates are Middle East Arab countries, the square of it are 92,000 sq. km and 84,000 sq. km respectively, the vast majority of the Jordanian territory is desert (approximately 90%), whereas the UAE territory is almost 100% desert, though Emirates has around 200 Islands, the ownership of some of them has been the subject of international disputes with the Islamic Republic of Iran. Jordan’s population is around 7 million whereas emirates’ population is around 8 million most of them are foreigners.

Unlike the UAE which is considered to be one of the largest producers and exporters of Oil and Gas, Jordanian natural resources and minerals are thought to be limited in quality and quantity, with no oil or gas recourses; Jordan's main natural resources are phosphates, potash, and yet unutilized shale oil.

The main environmental challenges in Jordan are limited natural fresh water resources; deforestation; overgrazing; soil erosion; desertification, the same challenges are also existed in the United Arab Emirates with one significant factor in favor of the Emirates; since the UAE is a rich country with huge revenues that enable the state to better manage and solve its environmental and developmental challenges.

2. Emirates' Environmental Legal Framework

The United Arab Emirates introduced many legislations related to the environment and its' protection, these legislations are¹:

1. Federal Law No. (24) Of 1999 for the Protection and Development of the Environment as amended.
2. Federal Law No. (11) Of the year 2002 Concerning Regulating and Controlling the International Trade in Endangered Species of Wild Fauna & Flora.
3. Ministerial decision no. (10) Of the year 2003 on issuing the executive by-laws of the federal law No. (10) of the year 2002 concerning practicing the veterinary medicine occupation.
4. Federal Law No. (11) of the year 2002 Concerning Regulating and Controlling the International Trade in Endangered Species of Wild Fauna & Flora.
5. Federal Law No. (23) of the year 1999 regarding the Exploitation, Protection and Development of the Living Aquatic Resources In the waters of the state of the United Arab Emirates.
6. Federal Law No.(7) of 1993 for the Establishment of the Federal Environmental Agency As Amended by Federal Law No.30 of 2001².
7. Federal law No. (6) of the year 1992 Concerning the amendments of some provisions of the federal law No.(5) of the year 1979 Regarding The Agricultural Quarantine.
8. Federal law No.(7) of the year 1992 On the amendment of some provisions of The Federal law No.(6) of the year 1979 Regarding Veterinary Quarantine.
9. Federal Law No. (41) of the year 1992 concerning Pesticides.
10. Federal law No. (38) of the year 1992 regarding the establishment of Nurseries and regulating of producing, importing and circulation of seedlings.
11. Federal Law No.(39) of the year 1992 concerning production, importing and circulation of Fertilizers and Agricultural Conditioners.
12. Federal Law No.(42) of the year 1992 on production, importation and Circulation of Seeds and Tubers
13. Federal Law No. (5) of the year 1979 concerning Agricultural Quarantine.
14. Federal Law No. (6) of the year 1979 concerning Veterinary Quarantine.

¹ As listed in the official website for the UAE Ministry of Environment and Water at: <http://www.moew.gov.ae/En/laws/>

² This Law has been revoked, and the Ministry of Environment and Water now is the legal competent authority responsible for implementing almost all United Arab Emirates' environmental legislations

15. The United Arab Emirates Basic Regulations for Protection Against Ionization Radiation
16. The United Arab Emirates Regulations for Sate Transport of Radioactive Materials
17. The United Arab Emirates Regulations for Radioactive Waste Management
18. Federal Law No.(1) of 2002 Regarding the Regulation and Control of the Use of Radiation Sources and Protection Against their Hazards and it's amendment Federal Law No. (20) of 2006
19. UAE Hunting Law, Federal Law No. (9) for 1983

3.Jordan's Environmental Legal Framework

Protection of the environment captures the attention of the Jordanian legislator since the sixties of the twentieth century, but it become more dominant in the nineties by the enactment of the first Jordanian Environmental Law No 12/1995. This law was amended and replaced by the Provisional Jordanian Environmental Act No 1/2003 and the Jordanian Environmental Protection Act No 52/2006 which is the applicable environmental law in Jordan until now. The main Jordanian legislations which deal the protection of the environment are:

1. Jordanian Environmental Protection Act no 52/2006
2. Jordanian Penal Code no 16/1960
3. Jordanian Agriculture Provisional Law no 44/2002
4. Jordanian Public Health Law no 47 /2008
5. Jordanian Nuclear Energy Law no 42 / 2007
6. Jordan Renewable Energy Provisional Law no /2008
7. Drugs and Pharmaceutical Law no 80/2001
8. Jordanian Law for the food and drugs Institution no 79 / 2001
9. Aqaba Special Economic Zone Act no 32/2000,
10. Water Authority Act no 18/1988
11. Natural Resources Authority Act no 30/1968
12. Development of Jordan Valley Act no 19/1988
13. Jordan Traffic Law no 49/2008
14. Municipalities Law no 13/2012
15. Industries and crafts law no 16/1953
16. Aqaba Special Economic Zone Law no 32/2000
17. Renewable Energy Law no 3/2010
18. Nuclear Energy Law no 42/2007

4. Main International Conventions ratified by the United Arab Emirates and Jordan

The United Arab Emirates actively contributes in almost all international environmental forums; the most advanced gesture for this contribution is the establishment of International Agency for Renewable Energy. The UAE invest heavily in an environmentally friendly cities and practice. *Masdar City in Abu Dhabi* "the capital city of UAE" is a clear example for this investment³. Many environmentally friendly

³ Masdar City is a project in Abu Dhabi, the capital city of the United Arab Emirates. Its core is a planned city, which is being built by the Abu Dhabi Future Energy Company, a subsidiary of Mubadala Development Company, with the majority of seed

practices are applied all over the Emirates i.e. non-smoking policies are in force in all public spaces, governmental or private sector premises and transportation, special rules are enforced to maintain and improve the quality and quantity of flora and fauna diversity, and also a huge projects to customize sea water for human usage and to treat sewage water in the Emirates.

United Arab Emirates becomes a state party to dozens of international treaties with environmental commitments at the regional and global levels;

In the regional level Emirates is a state party to the following international conventions:

- Kuwait Regional Convention for cooperation on the protection of the marine environment from pollution, 1978
- Protocol concerning Marine Pollution resulting from Exploration and Exploitation of the Continental Shelf, 1989
- Convention on Conservation of Wildlife and its Natural Habitats in the GCC countries
- Protocol on the Control of Marine Transboundary Movements and Disposal of Hazardous Wastes and Other Wastes, 1998

At the global level UAE is a state party to the following international conventions:

- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972
- International Convention for the Safety of Life at Sea 1974
- International Convention for the Prevention of Pollution of the Sea by Oil, 1954 and its amendments.
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969
- International Convention on Civil Liability for Oil Pollution Damage, 1969
- Vienna Convention for the Protection of the Ozone Layer of 1985 and Montreal Protocol on Substances that Deplete the Ozone Layer of 1987
- Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal, 1989.
- United Nations Framework Convention on Climate Change for the year 1992
- 1992 Protocol Concerning Amendments on International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969 and International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
- Convention on Limitation of Liability for Maritime Claims 1976

capital provided by the government of Abu Dhabi. Designed by the British architectural firm Foster and Partners, the city will rely entirely on solar energy and other renewable energy sources, with a sustainable, zero-carbon, zero-waste ecology. The city is being constructed 17 kilometers (11 mi) east-south-east of the city of Abu Dhabi, beside Abu Dhabi International Airport. Masdar City will host the headquarters of the International Renewable Energy Agency (IRENA). The city is designed to be a hub for cleantech companies. Its first tenant is the Masdar Institute of Science and Technology, which has been operating in the city since it moved into its campus in September 2010. The city as a whole was originally intended to be completed by 2016 but that date has now been pushed back to 2025.. For more the Masdar City, please visit Masdar City Official Website: <http://www.masdarcity.ae/en/>

- United Nations Convention to Combat Desertification for the year 1994
- Convention on Biological Diversity for the year 1992
- Convention on Persistent Organic Pollutants , 2001
- Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,1998
- Kyoto Protocol, 1997

For its' part, Jordan also actively participates in almost all international environmental forums, the leadership of Jordan released early the importance of international partnership in achieving the goal of sustainability and environmental protection. The King of Jordan, his Majesty King Hussien I addressed the Earth Summit in Rio 1992 by stating that: "Our earth is ailing. In its own language, it tells us that we must act together in a sustained and coordinated effort to help it heal. It seems self-evident that we should initiate or expand domestic strategies that lead to coordinated regional and global efforts"⁴.

Jordan is a signatory state to many international environmental treaties. The most important conventions are:

- The Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
- The International Convention for the Prevention of Pollution from Ships 1973
- The International Plant Protection Convention 1951
- The Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxic Weapons, and on Their Destruction 1972
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal, 1989
- Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
- United Nations Convention to Combat Desertification for the year 1994
- Convention on Biological Diversity for the year 1992
- United Nations Framework Convention on Climate Change for the year 1992
- Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,1998
- Vienna Convention for the Protection of the Ozone Layer of 1985 and Montreal Protocol on Substances that Deplete the Ozone Layer of 1987

5. Tracing Environmental Law Principles within Jordanian and Emirates' legislations

Principles of environmental law were set up in the Rio Declaration of 1992 issued the Earth Summit Conference held in Rio De Janeruo in Brazil under the umbrella of the United Nations.

The main principles of environmental law are sustainable development, precautionary principle, polluter principle, environmental impact principle, and the public participation.

⁴ The whole speech is published in His Majesty the Late King Hussien I official Website: http://www.kinghussein.gov.jo/92_june2.html

Tracing these principles within the Jordanian and Emirati legal frameworks related to environmental protection declares that both Jordanian and Emirati legislators do recognize most of these principles by mentioning them sometimes, or applying them in reality without making any reference to the principle as such. Therefore, all environmental law principles are mentioned and/or applied by Jordanian and Emirati Environmental legislations

5.1. Sustainable Development

Sustainable development was first introduced by Brundtland Report “Our Common Future”⁵, the report defines sustainable development as the development which fulfills the needs of the present generations, without compromising the abilities of future generations to meet and fulfill their own needs⁶. This concept becomes a landmark dictum in almost all environmental declarations and international environmental treaties. Principles 3 and 4 of the Rio Declaration endorsed this principle by stating that “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”, it explain further that, “in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it”⁷.

In the introductory article 2 the Jordanian Environmental Protection Act defines sustainable development as the development which exploits and utilizes resources to the benefit of present generations without compromising the ability of future generations to exploit and utilize these resources to fulfill their own needs and desires. And in Article 4 which determines the goals of the ministry of the Environment, sustainable development was mentioned as one the goal that the Ministry shall endeavor to achieve. In this regard one can notice that the Jordanian legislator provides a sound broad definition to sustainable development without specifying the means by which sustainable development is to be accomplished⁸.

⁵ Brundtland Report, the United Nations World Commission on Environment and Development (WCED), published in 1987. Available online at: <http://www.un-documents.net/our-common-future.pdf>

⁶ According to Brundtland Report the pursuit of sustainable development requires:

- A political system that secures effective citizen participation in decision making,
- An economic system that is able to generate surpluses and technical knowledge on a Self-reliant and sustained basis,
- A social system that provides for solutions for the tensions arising from disharmonious Development,
- A production system that respects the obligation to preserve the ecological base for Development,
- A technological system that can search continuously for new solutions,
- An international system that fosters sustainable patterns of trade and finance, and
- An administrative system that is flexible and has the capacity for self-correction.

⁷ Some were in doubt on how this concept could be operated and assessed since future generations are not known or even existed, and their needs and capacities are not determined due to the introduction of new and high technologies.

⁸ Hayajneh, Abdelnaser, “Environmental Law: the General Theory with explanation of Environmental Legislations, Dar Al Thaqafa, 2012, Amman- Jordan

Back to the United Arab Emirates Law on the protection and development of the Environment no 24 /1999⁹, Article 1 of this Law defines sustainable development as the Linkage of environmental issues with the policy for development and planning to fulfill the needs and aspirations of the present without undermining the ability to achieve future needs and aspirations. This definition is clear; because it provides for the mean by which sustainable development is to be achieved i.e. “Linkage of environmental issues with the policy for development and planning”. Generally speaking sustainable development has prerequisites, besides Linkage of environmental issues with the policy for development and planning, there is a need to reduce consumption, shift to renewable resources, usage of environmental friendly technologies, and applying effective waste management policies. Moreover, Article 9 of the Emirati Environmental Law provides that “All Concerned Parties specially parties responsible for planning, economic and construction development shall consider aspects of protection of the environment, control of pollution and rational use of natural resources when developing economic and social plans and when establishing and executing of projects.”

5.2. Precautionary Principle

As for the second principle, that precautionary approach is an overwhelming principle in environmental law; precaution is better than cure forms part of the human culture, therefore, it is in the interest of human and the environment to foresee the consequences and challenges resulted from human activities and set up a plan to encounter these challenges. The logic of the precautionary principle seems to be understood by both Jordanian and Emirati legislators; both apply the environmental impact assessment for all human activities which have adverse environmental consequences¹⁰. Although environmental impact assessment is a distinct principle of environmental law¹¹, but it has been viewed as a method by precautionary principle can be implemented, therefore, both Jordanian and the Emirati Environmental Legislations apply precautionary principle by operating environmental impact assessment as prerequisite to authorize deferent kinds of human activities.

Precautionary principle was applied also at an administrative level, the public authorities who have competences to monitor public health and human wellbeing in both countries are aware of the importance of precaution in shouldering their responsibilities. For example, the Jordanian Ministry for Agriculture prohibits the import of genetically modified products because of the uncertainty about their potential effects on human health and on the environment.

⁹ This law was published (in Arabic) in the UAE Official Gazette Issue No. 340, Year 28, October 1999

¹⁰Principle 15 of the Rio Declaration states that “In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” Rio Declaration on Environment and Development,1992, Available online at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

¹¹Principle 17 of the Rio Declaration provides that: “Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority”. Rio Declaration on Environment and Development,1992, Available online at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

5.3. Polluter Pays Principle

This principle was not mentioned in both Jordanian and Emirati Environmental Laws; however, it is widely applied by both legislations through criminal offences and financial penalties. The essence of this principle requires the polluter to bear the costs of his pollution, and not to shift the burden to the final consumer by raising the prices of his products or services. The competent authority must carefully watch the implementation of polluter pays principle so as to ensure that one who caused the damage to the environment should burden the liability to compensate the victims and restore the damaged environment¹².

Jordanian Environmental Law provides for many environmental violations, related to different kinds of pollution; air pollution, pollution in the marine environment, noise pollution, and illegal handling of waste etc. these violations were punished by imprisonment and/or financial fines, but, as for civil liability for acts or omissions resulted in environmental damage, the general rules of torts in the Jordanian Civil Law shall be applied.

The same criminal approach was applied by the Emirati Environmental Law. However, the Emirati Environmental Law provides for a civil liability doctrine in clear terms. Article 71 of the Emirati Federal Law no 24/1999 reads as follow: “Any person who, intentionally or by way of negligence causes damage to the environment or others as a result of violation of the provisions stated in this Law or the orders or resolutions issued for its enforcement, shall be held responsible for all the costs of treatment or removal of such damages and any compensation incurred as a result”, this provision is a civil application of the polluter pays principle since it hold responsible for compensation any person “natural or juristic” who, intentionally or by way of negligence causes damage to the environment or others.

It is to be mentioned that such compensation for the environmental damage, shall include the damages which affect the environment in such a way that prevents or reduces temporary or permanent lawful use, or damages the economic and aesthetic value as well as the cost of the environmental rehabilitation according to the Article 72 of the Law. Although these provisions are important, but they still need to be reviewed so as to provide certain rules to alleviate the burden of proof and certain rules of limitation other than those contained in the Emirati Civil Transactions Law.

5.4. Environmental Impact Assessment

Principle 17 of the Rio Declaration provides that “Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority”. Environmental

¹²Principle 16 of the Rio Declaration provides that: “National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment”. Rio Declaration on Environment and Development, 1992, Available online at: <http://www.unep.org/Documents/Multilingual/Default.asp?documentid=78&articleid=1163>

Impact Assessment is partial application for the precautionary principle, a cornerstone concept in environmental protection process.

The Jordanian Environmental Law no 52/2006 reaffirms the application of environmental impact assessment to wide range of activities which have potentially adverse environmental effects as a prerequisite to authorize new activities¹³. And to implement this requirement, the Environmental Impact Assessment Bylaw was issued in accordance to the Environmental Protection Act with a detailed framework to the process and procedures of environmental impact assessment. The Bylaw entrusted the Ministry of Environment with the competences of receiving the application and the study of environmental impact assessment, it stipulated that a technical committee shall be formed and it has the authority to review the environmental impact assessment study, and make its recommendation on the subject matter to the Minister of the Environment, and the Minister shall issue the final decision within 45 days from receiving the recommendation of the technical committee.

The applicant was granted the right to challenge the Minister decision before the High Court of Justice within the limitation period prescribed in Article 12 of the High Court of Justice Law no 12/1992¹⁴.

In the United Arab Emirates, environmental impact assessment also applicable to potentially environmental harmful activities, the Emirati Environmental Law defines environmental impact assessment as the study and analysis of environmental feasibility of activities, the establishment and practice of which may affect environmental safety. Article 3 of the Law grants the Environmental Agency in consultation with the competent authorities and concerned parties to set the standards, specifications, principles and regulations for the assessment of environmental impact of projects and establishments applying for license and shall specially undertake the following:

1. Identification of categories of projects, which due to their nature may cause harm to the environment.
2. Identification of areas and sites of special environmental importance or sensitivity such as historical and archaeological sites, wet lands, coral reefs, natural reservations and public parks.
3. Identification of natural resources and major environmental problems of special importance.

Articles 4-8 of the law specify the procedures for the application to get the project licensed, the process and timeline of environmental impact assessment, as well as the decision issued thereof; unlike Jordanian Environmental Law, the applicant does not have the right to challenge the decision which reject to grant him environmental license. In this regard, the law provides that: “The Agency shall, in coordination with the Competent Authorities, decide on the applications submitted, within a period not exceeding one month from the date of submission of the application. The applicant shall be notified of the decision and the reasons for rejection of his application if rejected. The period stated in the above paragraph may be extended by one month if need arises”¹⁵.

¹³ Article 13 of the Jordan Environmental Protection Act no 52/2006

¹⁴ This period range from 30 days to 60 days according to the circumstances, the Jordanian High Court of Justice Law no 12/1992, available in Arabic at: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=12&year=1992

¹⁵ Article 6 of The United Arab Emirates Federal Law No. (24) of 1999 for the Protection and Development of the Environment, available online at: [http://www.ead.ae/Tacsoft/FileManager/Laws/FEDERAL%20LAW%20NO%20\(24\).pdf](http://www.ead.ae/Tacsoft/FileManager/Laws/FEDERAL%20LAW%20NO%20(24).pdf)

5.5. Public Participation

This principle was mentioned in the Rio Declaration 1992 as a key principle in the integral environmental administration; according to this principle, environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

From the above mentioned Article, the principle of public participation consists of three main sub principles

- 1- Appropriate access to information
- 2- Opportunity to participate in decision-making processes
- 3- Effective access to judicial and administrative proceedings

All these sub principles are guaranteed under the Jordanian legal framework. The Jordanian Act related to guarantee the right to access to information, provides that each and every citizen has the right to request information from any governmental department, to this effect, specific rules and procedures are prescribed by the law.

Moreover, the Jordanian Constitution provides for right to vote for every citizen in the general elections to elect members of parliament “House of Deputies”, which with his Majesty the King has the legislative power in the Kingdom of Jordan, and also has jurisdiction to monitor governmental activities and programs.

At the local level, the Jordanian municipalities Law provides for local democracy by the election of members of municipalities and local authorities throughout the Kingdom. The principle of election “indirect participation in decision-making process” is maintained in other Jordanian Laws, i.e. Political Parties Law, the Universities’ Laws, Trade Unions and Professional Unions Laws.

As for the third sub principle namely access to justice, Article 101 of the Jordanian Constitution stipulates that Court shall be opened to all, and judicial proceedings shall be held in public unless the court decides otherwise for the interest of public order and morals, or where the interest of the litigants indicates that proceedings shall be held in private. This general principle applies to all matters including environmental cases where the plaintiff allege that his rights or legitimate interests infringed by a commission or omission of the defendant.

In the United Arab Emirates, the Federal Constitution of the UAE for the year 1971 was not clear in granting citizens’ rights related to environment¹⁶. The same notice can be mentioned regarding the Federal Law for the Protection of the Environment and its’ Development. The only provision in the Emirati Environmental Law that grants the citizen affected by environmental damage the right to access

¹⁶ the Federal Constitution of the United Arab Emirates for the year 1971, Available in English at: <http://www.uaecabinet.ae/English/UAEGovernment/Pages/ConstitutionOfUAE.aspx>

judicial institutions is articles 71 and 72 to demand compensation for all the costs of treatment or removal of such damages and any compensation incurred as a result. The compensation shall include the damages which affect the environment in such a way that prevents or reduces temporary or permanent lawful use or damages the economic and aesthetic value as well as the cost of the environmental rehabilitation. In the provisions regulating environmental impact assessment, and in the case that the application for environmental license is rejected, the legislator does not grant the applicant the right to challenge the administrative decision, but only stipulates that the applicant shall be notified of the decision and the reasons for rejection of his application if rejected. In Jordan however, the applicant has the right to challenge the decision to the administrative court as explained before.

In the field of what so called environmental democracy, although the UAE is a country with fair reputation in protection of human rights, and with high living standards for all citizens and residents, but further liberal steps need to be taken to enhance the participation of the citizens in the decision-making process in all state affairs including environmental administration.

The rights information is also protected under that UAE liberal jurisdiction, the Emirates is an open country with advanced media, the main media is governed and controlled by the state, but private media newspaper, satellite channels are widely available, besides a very advanced digital communications with not significant restrictions other than those required to maintain public order and morals.

Access to public registrars are available on the discretion of the public officers, but no single Emirati law organizes this access, so one can recommend that the state must interfere to guarantee this access unless in the case of confidential information related to trade competition, national security, defense, and military necessities.

6. Environment and Environmental Rights in the Jordanian and Emirati Constitutions

The Constitution of the Hashemite Kingdom of Jordan for the year 1952 did not provide for a right to a healthy environment granted to citizens; this situation can be understood at the time this constitution was first promulgated; since the Jordanian Constitution was drafted at a time when environmental problems were at the minimum, environmental awareness is relatively low, and Jordan population natural growth increases in a manageable rate. Moreover, international environmental movement was mature enough to have national legislators placed the environmental on their legislative agenda.

However, things dramatically changed since the fifties and sixties, hundreds of thousands of Palestinian refugees escaped to Jordan due to the Israeli occupation of Palestine territories forming very critical humanitarian and demographic crisis to Jordan through unplanned pressure on Jordan's vulnerable infrastructures and natural resources, water shortage due to natural and political factors, desertification, and a great loss in the country's green coverage.

In spite of these terrible circumstances, Jordan undergoes significant reform in urbanization, modernization, and educational tracks that enhances public and environmental awareness. It is worth mentioning that although Jordan starts enacting national legislations with environmental dimensions in a very early stage since the states' independency, the first ever special Environmental Protection Act was enacted in second half of the year 1995. But the constitution of Jordan remains untouched. Recently in 2011, and aspired by "Arab Spring", Jordan conducted a full review to its' Constitution and introduced

many constitutional amendments tackles in the first place some political aspects of the constitution, unfortunately, the Jordanian legislator missed the chance to green the constitution of Jordan by adding a provision granting each and every citizen a right to healthy environment. Therefore, a due criticism has been directed to the last constitutional amendments, because it fails to update the environmental dimension in the Jordanian Constitution in an era where huge environmental challenges existed and ahead affecting all aspects of human life¹⁷.

As for the United Arab Emirates, it is known that the State of the United Arab Emirates is a Federal State consists of seven Emirates; Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al Qwain, Ras Al Kheimah, and Al Fujairah. The federation was formed in the early seventies last century, by the late ruler sheikh Zayed Bin Sultan Al Nahyan, ruler of Abu Dhabi, and his counterparts in the remaining six Emirates.

Although the Federal Constitution promulgated in the a time where environmental protection began to have priority in states agendas, but the Emirati Constitution made no explicit reference to the environmental and its' protection; the only constitutional provision that may relatively have kind of environmental interpretation is Article 14 which provides that "Equality, social justice, ensuring safety and security and equality of opportunity for all citizens shall be the pillars of the Society . Co-operation and mutual mercy shall be a firm bond between them"¹⁸.

7. Jordanian Environmental Law: Overview

The Jordanian environmental Protection Law no 52/2006 is the third edition of Jordanian special environmental law; the first Jordanian special environmental issued in 1995, and then replaced by another law in 2003. The recent law comes into force in 2006, and still in effect without any amendment.

This Act is rather a brief one in comparison with the Emirati Environmental Law; it consists of 27 Articles, the first article specify the name of the law and its' date of coming into force, while the second Article was dedicated to definitions of terms used throughout the Law. Articles 3-5 provide for the establishment of the Ministry of the Environment, its' competences, and goals¹⁹.

Article 6 of the Law deals with the issue of importing waste, hazardous materials to the kingdom, and determines punishments for violators. While Article 7 grants the officers of the Ministry of the Environment the authority of public prosecutor. Articles 8-12 were dedicated to the protection of marine environment.

¹⁷ Hayajneh, Abdelnaser, "Environmental Law: the General Theory with explanation of Environmental Legislations, Dar Al Thaqafa, 2012, Amman- Jordan

¹⁸ the Federal Constitution of the United Arab Emirates for the year 1971, Available in English at: <http://www.uaecabinet.ae/English/UAEGovernment/Pages/ConstitutionOfUAE.aspx>

¹⁹ The main competences of the Jordanian Ministry of the Environment as mentioned in Article 3,4,and 5 of the Jordanian Environmental Protection Act are:

- Setting up general policies plans, programs and projects for the protection of the environment,
- Coordinating national efforts towards the protection of the environment,
- Setting up criteria and specifications for environment and its components, and monitor these criteria and specifications,
- Issuance of environmental regulations, standards and conditions for all kind of projects that may harm the environment,
- Issuance of environmental publications,
- Conducting environmental researches and studies ,
- Setting up plans to encounter environmental emergencies
- Regional and international cooperation in environmental protection field

In Article 13, the legislator addresses the issue of environmental impact assessment. Establishment of the environmental protection fund was prescribed in Article 16, some Articles provides for rules to combat air and noise pollution, the non-governmental organizations were first mentioned in the law in Article 22 and 24. Finally Articles 25 listed some bylaws that must be issues to implement the law; the law provides for 12 bylaws to be issued so as to enable the Ministry of the Environment to exercise its' role and competences.

8. Emirates Environmental Law: overview

The Federal Emirati Law on the Protection of the Environment and its' development no 24/1999 is the first Emirati special environmental law. This law seems to be comprehensive and detailed law; it consists of 101 Articles covering wide range of topic related to environmental protection and development from various kinds of pollutions²⁰.

Here are the main topics covered by the Emirati Environmental Law

- Terms and phrases used throughout the law,
- Environmental Impact Assessment rules and procedures,
- Protection for marine environment,
- Combating air pollution,
- Combating noise pollution,
- Civil liability for environmental damage
- Measures to be taken to protect the environment in emergency cases,
- Environmental violations, and punishment imposed thereof,
- The establishment of Federal Environmental Agency and its' competences,

The definition of the environment in the Emirate Act regarding the Protection and Development of the Environment²¹ is quite wider and comprehensive in comparison with the definition given to the environment in the Jordanian Environmental Protection Act; In the Emirates Act, the term environment consists of two elements, 1- the natural element which includes human, animals, plants, other living species, natural resources "Air, Soil, and Water", bio and non-bio materials, and natural ecosystems. 2- The artificial environment which include all man-made constructions, i.e. roads, bridges, airports, transportation, industries and technologies²².

The Emirate Environmental Act was also more comprehensive in the definition of the term pollution; it defines the "environmental pollution" along with certain forms of pollution i.e. water and air pollution. And same approach was applied by the act in the occasion of defining the term "waste".

While the Jordanian Environmental Act mentioned the objectives that the Ministry of the Environment should endeavor to achieve. The Emirates Environmental Act sets forth its' principles and objectives as follows:

²⁰ For more details see Kan'an, Naouaf, "Environmental Protection Law: Explanation of the Federal Law no 24/1999 on protection of the Environment and its' Development", second edition, 2011 Brighter Horizon Publishers, Sharajah, UAE

²¹ This law was published (in Arabic) in the UAE Official Gazette Issue No. 340, Year 28, October 1999

²² Article 1 of the Emirate Act regarding the Protection and Development of the Environment no 24/1999

- Protection and conservation of the quality and natural balance of the environment.
- Control of all forms of pollution and avoidance of any immediate or long-term harmful effects resulting from economic, agricultural, industrial, development or other programs aiming at improving life standards and co-ordination among the Agency, Competent Authorities and Parties concerned with the protection of the environment and conservation of the quality, natural balance and consolidation of environmental awareness and principles of pollution control.
- Development of natural resources and conservation of biological diversity in the region of the state and the exploitation of such resources with consideration of present and future generations.
- Protection of society, human health and the health of other living creatures from activities and acts, which are environmentally harmful or impede authorized use of the environmental setting.
- Protection of the State environment from the harmful effects of activities undertaken outside the region of the State.
- Compliance with international and regional agreements ratified or approved by the State regarding environmental protection, control of pollution and conservation of natural resources.

9. Similar and different legal aspects related to the protection of the Environment in Jordan and AUE

After reviewing the Jordanian and Emirate Environmental Protection legislation, certain points of similarity and diversity between the two legislations, Points of similarity in the Jordanian and Emirati environmental Legislations are:

1. Both legislations adopt a wide perspective to the environment to mean the biosphere in which different forms of life are manifested and consist of two elements: Natural Element: comprises living creatures to include man, animal, plant, and other living creatures, natural resources to include water, soil, organic and inorganic substances and natural systems. Unnatural Element: comprises all that man introduced into the natural environment, to include fixed and movable installations, roads, bridges, airports, means of transportation and innovative industries, inventions and technologies.
2. Both legislations adopt environmental impact assessment principle which applies for all activities initiated after the legislation entered into force²³. It is to be mentioned that Article 98 of the Emirate Environmental Law extend this rule to all existing projects and establishments by providing that: "Projects and establishments existing on the date of operation of this Law shall amend their status according to its provisions and the provisions of the Executive Order within a period not exceeding one year from the date of operation of the Executive Order. The Board of Directors may extend this period for another year if need so requires or if the extension has justification acceptable to the Board. Any expansions or renovations in the existing establishment shall be subject to the provisions stipulated in this Law". However, the Jordanian Environmental Act leaves the application of this principle to existed activities to the minister of the Environment discretion, whereas the emirate law applies to all activities wither they exist before or the after the law comes into force.

²³Articles 3-8 of the Emirate Environmental Law and Article 13/1 of the Jordanian Environmental Law as well as the Jordanian Environmental Impact Assessment Bylaw, Both Emirati and Jordanian environmental legislation specify the concept of environmental impact assessment as the study and analysis of environmental feasibility of activities, the establishment and practice of which may affect environmental safety.

3. Both legislations grant certain public servants the authority of police officer. Article 69 of the Emirati Environmental Law provides that “The Minister of Justice, Islamic Affairs and Awqaf, in agreement with the Minister of Health shall issue a resolution determining the employees of the Agency and the Competent Authorities, whose incumbents shall have judicial control powers for the inspection of establishments and other places to verify their compliance with the application of the provisions of this Law and resolutions issued for its enforcement. And employees of the Agency and the Competent Authorities so determined shall be entitled to control any violation of the provisions of this Law, and refer the violating party to the Competent Judicial Authorities in accordance with the procedures applied in the State”²⁴.this authority enhances the implementation of environmental provisions, and equipped those officers with the authority of law to better enforce environmental provisions.
4. Both legislations tend to apply criminal approach to handle environmentally unfriendly conducts²⁵; the rationale behind this approach is the belief that criminal law has more deterrent effect than other forms of legal liability.
5. Both legislations provide for the imposition of the heaviest penalty whenever two provisions criminalize the same offence, Article 87 of the Emirati Environmental Law stipulates that “The application of the penalties stipulated in this Law shall not contravene any more severe penalties stipulated in another Law”²⁶.
6. Both legislations adopt sustainable development as a key principle and goal in the environmental administration. Article 9 of the Emirate Environmental Law states that: “All Concerned Parties specially parties responsible for planning, economic and construction development shall consider aspects of protection of the environment, control of pollution and rational use of natural resources when developing economic and social plans and when establishing and executing of projects”. As well as Articles 2 and 4 of the Jordanian Environmental Law stipulates that the Ministry of the Environment shall endeavor to achieve sustainable development by implementing the rules and guidelines prescribed by the Law.
7. Both Legislations provide for the duplication of penalties in case of repetition, Article 88 of the Emirati Environmental Law reads as follows “In the event of repetition of the crimes stipulated in this Law, the penalties determined for such crimes shall be doubled”²⁷.
8. Both The Jordanian Environmental Law and the Emirati governmental framework provide for the establishment of Ministry of the Environment in Jordan, and the Ministry of the Environment and Water as a specialized governmental organs, and as the Minister of these ministries become a member of the Jordanian and the Emirati Cabinet; this situation comes in favor of the environment; because environmental affairs will regularly become part of the government agenda²⁸.

²⁴ In the Jordanian Environmental Law, Article 7 provides for the same rule.

²⁵ Articles 6-19 of the Jordanian Environmental Law, and Articles 73-90 of the Emirate Environmental Law

²⁶ The same rule is provided by Article 20 of the Jordanian Environmental Law

²⁷ The same rule is provided by Articles 9, 17, 18, 19 of the Jordanian Environmental Law

²⁸ Article 3-5 of the Jordanian Environmental Law

10. Advantages of the Emirati Environmental Legislations in comparison with the Jordanian Environmental Legislations.

The comparison between the Jordanian and the Emirati environmental legislations shows that the Emirati Environmental Legislation has many advantages over the Jordanian Legislation in the following aspects;

1. The Emirates' Environmental Law provides for civil liability for environmental damage and affirms the rights of the injured party to claim compensation, moreover, it provides for compensation even when the pollution affects the environment per se. Article 71 of the Emirate Environmental Law states that: "Any person who, intentionally or by way of negligence causes damage to the environment or others as a result of violation of the provisions stated in this Law or the orders or resolutions issued for its enforcement, shall be held responsible for all the costs of treatment or removal of such damages and any compensation incurred as a result". moreover, Article 72 went on to provide that: "The compensation for the environmental damage referred to under article (71) of this Law, shall include the damages which affect the environment in such a way that prevents or reduces temporary or permanent lawful use or damages the economic and aesthetic value as well as the cost of the environmental rehabilitation").

In the contrary, the Jordanian environmental law leave this uncovered by its' provision. Therefore, the general rules on tort prescribed in Jordanian Civil Law apply to case where environmental damage is in question, needless to say that, the suitability of the traditional tort rules in environmental context is uncertain because of the some characteristics associated with environmental harms especially when damage affects the environment per se.

Although the Emirati approach regarding the issue of civil liability for environmental is recommended, but it needs some improvement by providing some legal rules to better handle the difficulties associated with environmental litigations; such as the burden of proof, rules of limitation "prescription", standing especially in pure environmental damage cases, and the issue of estimating compensation for ecological harm where the environment per se and its' components are the victims of polluting activity²⁹.

2. The Emirate Environmental Law provides for a system of environmental incentives to encourage individuals, institutions to apply environmentally sound practices and techniques. Article 96 of the Emirate Environmental Law reads as follows: "The Environmental Agency shall, in coordination with the Competent Authorities, establish a system of incentives awarded to organizations, agencies, establishments and individuals undertaking jobs or projects for the protection and development of the environment in the State, and the system shall be issued by a decree from the Board of Directors".
3. The whole Emirate Environmental Law looks comprehensive, coherent and detailed, while the Jordanian environmental legislations look fragment, and to some extent incoherent; which results in potential overlapping, contradictions, and low enforceability and effectiveness³⁰. The Emirate Environmental Law provides for a duty of individuals and institutions to offer their assistances and capacities in states of emergency and environmental disasters; Article 16 of the Law states that: "All parties and individuals in the State shall endeavor to offer their help and potentials needed to combat environmental disasters". As

²⁹ Hayajneh, Abdelnaser, "Special Judicature, Again and Again: Does Jordan Need to Establish Special Environmental Court?", European Journal of Social Sciences – Volume 14, Number 2 (2010), Available online at: http://www.eurojournals.com/ejss_14_2_11.pdf

³⁰The Emirate Environmental Law consists of 101 Articles while the Jordanian Environmental Law consists of only 27 Articles

well as Article 92 which provides that: “The Agency shall be entitled to request the assistance of the Seaports Authorities, armed Forces, Ministry of Interior, Ministry of Petroleum and Mineral Resources or any other Party, in order to implement the provisions of this law, and such parties shall whenever requested, provide support as soon as possible”.

4. The Emirate Environmental Law provides for a speedy process while reviewing environmental violations, and granted the courts in the Capital city of Abu Dhabi the jurisdiction in all environmental violation committed by a transportation means in our the State international water according to Article 90 which provides for: “The court located in the area where the crime occurred, shall decide on all crimes stipulated in this Law, if the crime occurred in a marine means of transportation of any nationality or kind within the marine environment of the State and the court shall quickly decide on the case. Criminal courts of the capital shall decide on crimes committed by marine means of transportation, raising the flag of the State outside the marine environment of the State”. Whereas the Jordanian Environmental Law leave it to the competent court to review environmental violations by the ordinary procedures which may be inappropriate in certain environmental damage cases³¹.
5. The Emirate Environmental Law pays attention to the role of scientific research in protecting the living species as an important element in the state ecosystems. Articles 68 of the Law states that: “Research centers, scientific institutions, universities and other specialized parties shall, in coordination with the Agency take interest in the issues of biological diversity, preservation of the indigenous of species, conducting studies and research and proposing the controls and procedures to be followed for the preservation and investment in such species without leading to their depletion and protecting the moral, social and economic lawful rights of the State”.
6. The Emirati Legislator is clearly approach sustainable development by defining it as linkage of environmental issues with the policy for development and planning to fulfill the needs and aspirations of the present without undermining the ability to achieve future needs and aspirations. Whereas Jordanian Legislator emphasizes on the theoretical concept of sustainable development leaving to the competent authorities and all stakeholders the discretion to apply policies and actions so as to achieve sustainability.
7. The Federal Constitution of the United Arab Emirates made an implicit reference to some substantive environmental rights, such as the right to natural resources. Article 23 of the Constitution states that: “The natural resources and wealth in each Emirate shall be considered to be the public property of that Emirate. Society shall be responsible for the protection and proper exploitation of such natural resources and wealth for the benefit of the national economy”.
8. Article 16 of the Emirati Environmental Law provides for an obligation on “all parties and individuals in the State shall endeavour to offer their help and potentials needed to combat environmental emergences and disasters”. Whereas, the Jordanian Environmental Law only mention environmental emergences when it determines the competences of the Ministry of the Environment, by stating that “the Ministry shall set plans to encounter environmental disasters and emergences”³².
9. The Emirati Environmental Law requires the owner of the a certain project or establishment not only to provide environmental impact assessment before they can get environmental permit, but also requires them the conduct a periodic analyses for waste resulted from their project or establishment and report to

³¹ Unfortunately, the revoked Jordanian Environmental Law no 12/1995 and the Provisional Environmental Law no 1/2003 provided for a speedy process while reviewing environmental violations

³² Article 4 of the Jordanian Environmental Law no 52/2006

the competent authorities. Article 7 of the Law states that “Owners of projects or establishments approved by license shall undertake regular analysis of wastes and monitor the properties of discharge and pollutants generated from such projects including degradable materials and keeping monitoring records and sending reports with the results to the Agency and the Competent Authorities”.

10. To achieve the goals of environmental protection, the Emirati Environmental Law include the projects and establishments not only after its’ date of coming into force, but also projects and establishments existing on the date of operation of this law and determined by the Executive Order, The owners of such projects and establishments shall provide the Agency within a period not exceeding one year from the operation of the Executive Order, with a complete statement of their activities. The statement shall include their suggestions concerning precautions and measures to be taken so that the operations of the project or establishment meet the required environmental standards. The Agency shall determine within a period not exceeding six months, the precautions and measures to be taken by the owner of the project or establishment³³.
11. The Emirati Environmental Law entitled the Agency - the Ministry of the Environment and Water- with the power to request the assistance of the Seaports Authorities, armed Forces, Ministry of Interior, Ministry of Petroleum and Mineral Resources or any other Party, in order to implement the provisions of this law, and such parties shall whenever requested, provide support as soon as possible³⁴.

11. advantages of the Jordanian Environmental Legislations in comparison with the Emirati Environmental Legislations

In the other hand, Jordanian Environmental legislation outweighs Emirati environmental legislation in certain points as follows;

- 1- The Jordanian Environmental Law provides for the establishment of environmental fund, the fund uses its’ assets to support environmentally friendly activities and practices³⁵.
- 2- The Jordanian Environmental Law apply a simple and clear criminal approach by prescribing environmental offences and determines the due punishment in the same provision, whereas the emirate environmental law prescribes the offences in a provision, and then determines the assigned penalty for said offences in another provision which may cause ambiguity, difficulty and misapplication of the law.
- 3- The Jordanian environmental legislations entrusted the administrative judiciary with the authority to review the decisions of the minister of the environment, especially those decisions issued in accordance with environmental impact assessment bylaw. This offers individuals and institutions a guarantee to challenge the abuse of power in this regard³⁶, whereas article 6 of the Emirate Environmental Law only stipulates that the project owner who applies for the licensing his project and required to submit environmental impact assessment be notified of the reasons which lead to the license rejection.
- 4- The Jordanian Legislator apply a clear approach in criminalizing environmental offences by criminalizing the act or the omission and determine the punishment assigned for that act or omission, whereas the

³³ Article 98 of the Emirati Environmental Law no 24/1999

³⁴ Article 92 of the Emirati Environmental Law

³⁵ Article 16 of the Jordanian Environmental Law, and the Jordanian Environmental Fund Bylaw

³⁶Article 16-16 of The Jordanian Environmental Impact Assessment Bylaw

Emirati Legislator provides for rather a complex and unclear approach by assign the obligation of the concerned person, and in a spate articles the law determine the punishments attached to each and every violation making it – to certain extent- hard to apply the law in an effective manner³⁷, and compromising the role of the law to enhance environmental awareness. Moreover, it increases without good reason the volume of the Law.

12. Common Loopholes in the Jordanian and Emirates' legislative framework related to the protection of the Environment

Besides the above mentioned points of comparison, there are common loopholes in the Jordanian and Emirates' legislative framework related to the protection of the Environment; these loopholes are briefed as follows:

1. The absence of environmental substantive and procedural environmental rights in the special environmental legislation.

Generally speaking the Jordanian and the Emirati legislators ignore the mentioning of environmental rights, no single legal provision explicitly or implicitly confer citizens any kind of rights related to healthy unpolluted environment; leaving it ambiguous to derive such substantive environmental right from the set of rights endorsed in the Jordanian and Emirati Constitutions and other level of legislation in both countries. However, the Federal Constitution of the United Arab Emirates implicitly refers to some substantive environmental rights namely the right natural resources³⁸. As for the Jordanian Constitution, Article 117 cannot support or give clear implication to the right to natural resources. It provides that: "Any concession granting a right for the exploitation of mines, minerals or public utilities must be ratified by law"³⁹.

However, environmental procedural rights are in a better situation especially in Jordan. Public participation in decision making process, the right to information, and access to justice, are guaranteed under Jordanian legislative umbrella; the Jordanian Constitution provides for citizens right to participate in the general election by voting to form the chamber of deputies which is has the right to legislate according to certain procedures prescribed by the constitution.

Moreover, the Jordanian Municipalities Law as amended guarantees the citizens' to elect members of the local councils⁴⁰.

Regarding the right to information, the Jordanian Act to guarantee the right to get information is a pioneer Act of its' kind in the region of meddle East; it allows any interested person to request information from any public department according to certain conditions⁴¹.

³⁷ Chapter 8 of the Emirati Environmental Law

³⁸ Article 23 of the Federal Constitution of the United Arab Emirates, available online in English at: <http://www.unhcr.org/refworld/category/LEGAL,,,ARE,48eca8132,0.html>

³⁹ The Constitution of the Hashemite Kingdom of Jordan, Available online in English at: <http://www.nchr.org.jo/english/LegalPointOfReferance/NationalLegislations/JordanianConstitution/ConstitutionoftheHashemiteKingdomofJordan.aspx>

⁴⁰ Jordanian Municipalities Law as amended no 13/2011, Available in Arabic at: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=13&year=2011

Some Jordanian Laws and Bylaws require certain public Ministries and Departments to make available information related to some aspects of human life and interest, i.e. Jordanian Public Health Law, Jordanian Agriculture Law, and Jordanian Environmental Impact Assessment Bylaw⁴².

The Jordanian Constitution also guarantees the right to access to justice by affirming that courts shall be opened to the public so as to defend their rights and protect their legitimate interests.

In Emirati legal system, the Constitution of the United Arab Emirates provides for the establishment of National Federal Council without specifying the method by which its' members are to be appointed, whether its election, or direct appointment⁴³.

As for the right to information, although, the United Arab Emirates adopt a liberal Approach towards media and communications, however, there is no Emirati law guarantees the right to access or get information from governmental organs. Moreover, the Emirati Constitution is not explicit regarding the right to access to justice; but under the general principles of law, one can expect that the right to access court is guaranteed in any liberal legal system.

2. The absence of most environmental law principles

Environmental law principles are not mentioned explicitly in the Jordanian and Emirati legal frameworks. With the exception of sustainable development, and environmental impact assessment, other environmental law principles, i.e. polluter pays principle, precautionary principle are to derived from the general trends applied by both Jordanian and Emirati environmental legislations. Both environmental frameworks adopt an approach close to precautionary principle, and also operate the polluter pays principle in a criminal manner, with superiority to the Emirati Law in this regard; this is because, articles 70 and 71 of the Emirati Environmental Law provides for a civil liability regime to handle environmental damage caused by commissions and omissions of the polluter. It is to be mentioned that some Arab environmental legislation listed environmental law principles in a distinct provision, such as the Lebanese Environmental Law⁴⁴.

3. The relatively weak role of non-governmental organizations

Due to the fact that environmental legislations in Jordan and United Arab Emirates have no long history; public awareness related to environmental initiatives is still in its' early stages, it is just in the recent few years that some environmental non-governmental organizations start to appear and participate in environmental protection efforts. These environmental non-governmental organizations play central role in raising public awareness in relation to environmental issues. However, these environmental non-governmental organizations need to be supported by the law to enhance their role by means such as granting it financial aids and legal standing in pure environmental damage cases.

⁴¹ the Jordanian Act to guarantee the right to get information, Available in Arabic at: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2007

⁴² Article 18 of the Jordan Environmental Impact assessment Bylaw, no 37/2005, Available in Arabic at: http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=37&year=2005

⁴³ Article 69 of the UAE Constitution leaves to each Emirate the right to decide the way by which it choose its' representative to the National Federal Council

⁴⁴ Article 4 of the Lebanese Environmental Law no 444/2000

4. Judicial jurisdiction in environmental violations

Jordanian Environmental Law confers the competence to review environmental violations to both Magistrates and Courts of first Instance based on geographical or monetary considerations⁴⁵, the Emirati Environmental Law provides for almost the same rule with some central jurisdiction for the capital criminal court Emirati Environmental Law; Article 90 of the Emirati Environmental Law states that: “The court located in the area where the crime occurred, shall decide on all crimes stipulated in this Law, if the crime occurred in a marine means of transportation of any nationality or kind within the marine environment of the State and the court shall quickly decide on the case. Criminal courts of the capital shall decide on crimes committed by marine means of transportation, raising the flag of the State outside the marine environment of the State”. In this regards some argue that environmental litigations need to be handle by a specialized legal bodies, and the access to justice principle requires that environmental justice should be made available to all by simplifying the procedures of litigating environmental violations.

13. Recommendations

After reviewing all aspects in the Jordanian and United Arab Emirates environmental legal frameworks, some recommendations are provided to guide both the Jordanian and Emirati legislators to improve their legal instruments to achieve the goals and objectives of environmental protection process. These recommendations are:

- Jordan and the United Arab Emirates are invited to follow the new trends in the field of human rights and environmental protection, and are strongly invited to green their Constitutions by adding a constitutional provision endorsed a citizen right to a healthy environment.
- Jordan and the United Arab Emirates are invited to expressly adopt environmental law principles in their environmental legislations.
- Jordan and the United Arab Emirates are invited to enhance the role of non-governmental organizations in the field of environmental protection process. This enhancement can be achieved by facilitate the establishment formalities of such organizations, financial support, and raising environmental public awareness.
- The Jordanian and Emirati legislators are invited to unify the judicial jurisdiction in all environmental violations and confer the competence to review and decide these violations to magistrates; so as to better deliver environmental justice, and to facilitate the qualification of judicial cadre specialized in environmental litigations.
- The United Arab Emirates is invited to utilizes its huge financial capacities and consider the Jordanian experience in establishing environmental fund allocated only for supporting environmentally friendly projects and establishments, and spending its’ assets in restoration of the damaged environment as a result of pollution of deferent kinds.

⁴⁵ Article 2 of the Jordanian Environmental Law

- The Emirati legislator is invited to provide for the establishment of Ministry of the Environment; so that the environmental and its' protection and development will be in the top of Emirati Government.
- The Emirati Constitutional legislator may consider a more liberal approach in dealing with participation of the public in decision-making process, especially in forming the National Federal Council.
- The Emirati legislator needs to provide for judicial control over the administrative decisions related to environmental impact assessment studies, so as to prevent abuse of power, and to enhance the rights of the applicant to challenge the wrongful administrative decisions.
- Jordan is invited to consider the Emirati experience in applying environmental economic incentives, to encourage individuals and corporations to voluntarily adopt and apply environmentally friendly techniques and processes.
- Jordanian legislator is invited to deal with environmental harms and the liability attached to such harms in its' environmental protection law, and is invited to further improve the Emirati experience in this regard, by providing some legal rules to better handle the difficulties associated with environmental litigations; such as the burden of proof, rules of limitation "prescription", standing especially in pure environmental damage cases, and the issue of estimating compensation for ecological harm where the environment per se and its' components are the victims of polluting activity.
- In the interest of justice and efficiency, the Jordanian legislator is invited to follow Emirati approach in providing for a speedy process while reviewing environmental violations. And also invited to apply a unified jurisdiction over environmental criminal violations and civil cases related to environmental damage. In this regard, magistrates courts seem the best option, and as specialized judicial cadre in environmental disputes become available, Jordan and United Arab Emirates may opt to establish special environmental courts to review all criminal and civil cases with environmental dimension⁴⁶.

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⁴⁶ Hayajneh, Abdelnaser, "Special Judicature, Again and Again: Does Jordan Need to Establish Special Environmental Court?", European Journal of Social Sciences – Volume 14, Number 2 (2010), Available online at: http://www.eurojournals.com/ejss_14_2_11.pdf

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Author Biography

Dr. Abdelnaser Zeyad Hayajneh is an associate professor at Law School in the University of Jordan and currently spending sabbatical and working as an associate professor in college of Law/ at the American University in the Emirates,. He graduated from Newcastle University with a PhD in Civil and Environmental Law. Dr. Abdelnaser Hayajneh is the author of two published books and the third is in the process of publication, the published. He also published many articles in the field of Civil Law, Environmental law, Islamic Legal Literature, and Human Rights

- Environmental Law: General Theory with explanation of Environmental Legislations (book)
- Legal Terminology: Learn, Proceed and have Fun (book)

- Environmental Law: Environmental Legislations in the United Arab Emirates”. (In the process of publication, book)
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- New Rules in the Jordanian Amending Landlords and Tenants Act No 17 / 2009 (Article)
- Special Judicature, Again and Again: Does Jordan need to establish special Environmental Court? (Article)
- Vanishing Borders: Can Human Rights be a subject of Private Law? Exploring Human Rights under Jordanian Civil Law (Article)
- Just Compensation as a condition for the legality of Expropriation under the Jordanian Expropriation Law (Article)
- Legal Surgery: the Need to Review Jordanian Civil Law (Article)
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