



Role of UAE Law in Protecting Environment and Achieving Sustainable Development

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Introduction

Ecology is one of the important branches of biology, which studies living organisms and their environmental habitats. It is the science that examines the relationship of living factors of animals, plants and microorganisms with each other and with the surrounding non-living factors.

For thousands of years, the environment has been changing by man and this change began to expand and increase in importance in the last century. These changes have begun to produce their important effects at the global level, which will undoubtedly affect the continuation of global economic development and the possibility of living on planet Earth in the long term.

The earth is considered the great environment of life since man has not yet discovered any form of life anywhere other than the earth. The Creator has willed to: make the earth, for man, an expanse, provide him with all means of life and determine the livelihoods which meet his needs and the need of all the living on the earth, beginning with microorganisms and ending with the human being himself. the Creator has also made the sun and the moon subject to the man, sent the wind and the cloud and sent down, from the sky, fresh clean rain by which He has revived plants, animals and the man. All these blessings and countless others work regularly and meticulously according to three fixed laws of nature known as ecological laws, namely the law of interdependence, the law of stability of eco-systems and the law of the limitedness of environmental resources.

Over ages and during his continuous evolution and growth and the increase in human mass, man is one of the biggest factors of the depletion of natural environmental resources, which has caused a threat to his life on earth and led to a disturbance of the ecological balance. The role of environmental sciences is to identify environmental problems, whether their factors are natural or cultural, and to search for appropriate means: to address these problems, reduce them, evaluate their dimensions and analyze their repercussions on the potential of continuous growth in light of the link between the human environment and the policies adopted by countries to protect their resources, rationalize their uses and address the deterioration that determines their ability to renew and survive.

Because of the diversity of environmental problems in terms of their causes and consequences, environmental sciences are considered a sort of the interrelated sciences, which are closely related to the natural, human and applied sciences. These environmental sciences are now taught in international and Arab universities, and this trend increases due to the increasing global human awareness of the seriousness of environmental problems.

The rules of the civil code are considered the effective means of protecting the environment that would work to repair the damage caused by the harmful activity of a person against others. The aim of these rules is to redress this damage by erasing or mitigating it. Accordingly, the concern of the civil code is the harmful act that affects the individual, and this results in the emergence of the civil liability of the actor. The application of the legal rules stipulated in the Civil Law must be taken into account as the organic Sharia that must be relied upon before addressing other rules. The environmental laws impose a specific legal obligation, which is the preservation of the biosphere with its various elements; and the protection of the environment is governed by the same rules of liability as a social phenomenon, which can affect the environment around it and this is reflected on its organization of the activities of individuals in their relationships, hence the difficulty of applying the rules of liability appears. Therefore, all social, economic and cultural conditions must be taken into account to face the environmental damage. A French jurist says "It is not always easy to establish general rules in a social community where economic interests conflict"ⁱ

At the present time, the question arises about the role of law in achieving sustainable development, and the answer to this question seems not easy. The subject is complex and intertwined since it includes social, economic and political issues, on the basis of the necessity of development on the one hand, and its increasing (negative) effects on the environment on the other hand, especially with: the progress of science and technology, the increasing population growth, and the need to maintain the conditions for the continuation of life and the development capabilities of future generations through reasonable facilitation with natural resources, which is termed "sustainable development" and this is the topic of research.

Rationale for Research:

The topic of the research is one of the most important topics in the field of legal studies because of its close association with the lives of individuals and their problems. The multiplicity and development of these problems led to the emergence of issues resulting from the environment and causing great damage to it, which must be studied to develop a legal regulation for them.

Problem of Research:

The problem of the research lies in examining the adequacy of the general rules in the UAE law, in its current state, to protect against environmental damage in compensating for the damage resulting from the environment, or whether the nature of the environment prevents this. The problem of the search also addresses the possibility to enact special legislation and rules to confront this phenomenon, and **role of UAE law in achieving sustainable development of the environment.**

Objectives of Research:

This study seeks to achieve a primary goal of identifying **the role of UAE law in protecting and achieving sustainable development of the environment, and the following sub-objectives branch off from this primary goal:**

- To identify the role of law in protecting the environment;
- To identify the **civil protection of the environment in UAE law;**
- **The criminal protection of the environment in UAE law.**

Methodology of Research:

In this topic, the analytical approach will be adopted, which is based on: analyzing the legal texts that is related to the environment and the legal texts that regulate this topic, and discussing them in order to draw appropriate conclusions.

Line of Research:

The research includes an introduction, three chapters and a conclusion:

In introduction, the topic, rationale, problem, methodology and objectives of the research have been addressed.

Chapter I: Civil Protection of Environment in the UAE Law

Theme I: Concept of Environment

Theme II: Role of Moral and Legal Liability in Protecting the Environment

Chapter II: Legal Basis for Protection of Environment according to General Rules in UAE Law

Theme I: Subjective Theory as a Basis for Environmental Protection

Theme II: Objective Theory as a Basis for Environmental Protection

Chapter III: The Role of UAE Law in Achieving Sustainable Development of Environment

Theme I: Concept of Sustainable Development

Theme II: Role of UAE Law in Development of Environmental Resources

Conclusion: It includes research findings and recommendations.

Chapter I: Civil Protection of Environment in UAE law

Preamble:

There is no doubt that it is important to address the role of civil liability towards confronting environmental damage. Although the liable person often tries to get rid of his liability by making the affected person hold the liability, or removing his liability by claiming that he is authorized to carry out such activities and acts or claiming that he complies with the administrative instructions, permissions and administrative licenses issued to him by a head who must be obeyed. Given the different environments, rules and regulations, the difficulty of application of the rules of liability appear, and all social, economic and cultural conditions must therefore be taken into account to face environmental damage. In light of that, this chapter will be divided into two themes:

Theme I: Concept of Environment

Theme II: Role of Moral and Legal Liability in Protecting the Environment

Theme I: Concept of Environment

The environment is defined in the Emirati legislation; under Article (1) of the Law of Environment, which is the UAE Federal Law No. 24 dated 17/10/1999 on the protection and development of the environment, amended by Federal Law No. 11/2006 dated 07/05/2006; as: the biosphere in which the manifestations of life are clear in its various forms, and this biosphere consists of two elements:

- Natural element that includes: living beings whether humans, animals, plants... etc.; and natural resources of air, water, soil, organic and inorganic material; as well as natural ecosystems;
- Unnatural element that includes all what man has introduced to the

natural environment such as fixed and non-fixed facilities, roads, bridges, airports, means of transportation and the industries, innovations and technologies he has developed.

As for the definition of the environment in jurisprudence, the legal jurisprudence did not agree on a specific concept of the environment, mainly due to the difficulty of developing a concept of the environment because of the predominance of the legal character that pushes the lawman to specificity and accuracy, hoping to reach a definition that is comprehensive of what falls under it, and a preventing one that forbids the entry of others into it. It is believed that the most appropriate definition of the environment is the definition of Dr. Ahmed Abdul Karim Salama, which states: "The environment is the sum of the natural and vital factors and the social, cultural and economic factors, which exceed in balance, and affect man and other beings, directly or indirectly".ⁱⁱ

Theme II:

Role of Moral and Legal Liability in Protecting the Environment

First: Moral Liability in Protecting the Environment

Moral liability is a liability that does not fall within the scope of the law and does not entail a legal sanction, and its matter is entrusted to the conscience.ⁱⁱⁱ The moral liability has a role in protecting the environment from the environment and there is no doubt that preserving the environment from the environment is a moral liability before being a legal one. When a person commits a violation in the environment, whether intentionally or negligently, regardless that it causes damage or not; moral liability is established on his part. Moral liability also appears even if the punishment does not amount to sanctions or compensation, but the situation addresses the conscience and religion of a person which make the person refuse to commit that violation. The law only cares about the acts resulting from: negligence, lack of foresight or bad intention of the perpetrator, which entail damage or crime; but the moral liability is broader in scope and subjectivity than

legal liability because it falls within the circle of ethics, which all civilized countries are keen to respect, maintain and adhere to.^{iv} Hence, one is accountable for the violation of the principles of ethics, even if it comes from within the human soul, before his conscience.

Second: Tortious and Contractual Civil liability in Protection the Environment:

Legal liability arises as a result of the breach of a legal obligation^v and it is divided into two types:

- civil liability which arises when a person causes a damage to another person;
- criminal liability which arises when the damage affects society.

The civil liability is divided into:

Tortious civil liability and contractual civil liability, both of which have a role in protecting the environment, as follows:

1. Tortious Civil Liability in Protecting the Environment:

Civil liability serves an important function, which is providing compensation to the affected person after the course of its attention shift from the liable person to the affected person. The civil liability is a true reflection of the values of society and the type of philosophy in which it believes, and the development of its rules is a true measure of the maturity of social and legal awareness in society^{vi}. The problem of environmental pollution reflects its impact on the legal regulation of civil liability, especially if the pollution is multi-source or if its effects are future ones. In order to refer to the liable person, the affected person finds himself looking for evidence against that liable person and a causal relationship between the various activities that affect him and the damage that has occurred to him, and all these are legal assumptions that are difficult to prove.^{vii}

This calls for searching for new rules for liability without departing from the frameworks of traditional rules, as civil liability for environmental damage raises many problems. We are in the process of an activity for which it is difficult to set a fixed standard. That is to say, the traditional pillars of liability are: a fault, damage and a fixed causal relationship in each type of liability. Hence the search for new solutions to liability is away from traditional liability. So liability is not based on only one theory, which is the subjective theory, but in each case, the theory, to

which the act applies.

Civil liability for environmental fault arising from the environment is the legal case of a person who committed an environmental crime that resulted in damage to the person or money of others, so he became obliged to compensate for this damage. Accordingly, civil liability is an obligation imposed on the person who has damaged the environment for the sake to compensate for the damage arising from his fault or the damage caused by him without any fault on his part. This obligation is only intended to compensate for the damage, and therefore it is an honest mirror and a true translation of reality in the case where an environmental hazard occurs. The role of civil liability in the face of environmental damage arising from the environment is growing every day due to the inadequacy of administrative regulations and the overlap of many social, economic and political considerations. Moreover, the environmental damage, arising from the environment, does not affect the state and society only, but also affects individuals, and therefore effective protection from this damage must be developed for individuals by obliging the person who causes the damage to provide compensation for this damage.

2. Contractual Civil Liability in Protecting the Environment:

The essential basis of contractual liability is the contractual fault, which is reflected in the non-implementation, delay in implementation or defective implementation of the contractual obligation. The Egyptian Court of Cassation ruled that: The basis of the contractual fault is the debtor's breach of his contractual obligation, and thus a request for compensation for the breach of contractual obligations is submitted, and the reason for compensation is the breach of the contract. It is decided that the contractual fault occurs when the debtor fails to perform his obligation arising from the contract, and therefore the request for compensation for breach of contractual obligations is based on the contract and the reason for the request is the breach of contract.^{viii}

In the field of environmental damage, jurisprudence tends to^{ix} apply the traditional rule of contractual liability; providing that "pacta sunt servanda" with the need to abide by the rules of that liability, such as the damage resulting from the obligation to warrant against latent defects of the thing sold, which is stipulated in Article (447) of the Civil Code, and the obligation to inform and advise. The

Environmental Law No. (4) of 1994 in articles (29) to (33) has regulated how to handle, manage, process, import and produce hazardous material and waste. Thus, contracting parties must comply with those rules.

According to the general rules and what is established by the rulings of the Federal Supreme Court in the Emirates, as provided for in Article (282) of the Federal Civil Transactions Law; "any damage done to another person, even by someone who is incapable of discernment, shall be remedied by the party responsible for it". The following article (283) of the said law stipulates that "(1) harm may be direct or by causation (2) If the harm is direct, it must unconditionally be made good, and if it is consequential there must be a wrongdoing or a deliberate act or the act must have led to the harm."^x

Article (71) of the UAE Federal Law No. 24 dated 17/10/1999 on the protection and development of the environment , as amended by Federal Law No. 11/2006 dated 07/05/2006, stipulates that whoever causes, by his act or negligence, damage to the environment or to the others as a result of violating the provisions of this law or the regulations or decisions issued in implementation thereof shall be liable for all costs necessary to repair or remove such damage, as well as any damages that may result therefrom.^{xi}

The role of civil liability in the face of environmental damage arising from the environment is growing every day due to the inadequacy of administrative regulations and the overlap of many social, economic and political considerations. Moreover, the environmental damage, arising from the environment, does not affect the state and society only, but also affects individuals, and therefore effective protection from this damage must be developed for individuals by obliging the person who causes the damage to provide compensation for this damage.

Given the seriousness of environmental damage and the need to compensate the affected persons, mechanisms for compensating for such damage shall be searched for^{xii}. In fact, the fault and assumed liability, in the face of the dangers of environmental pollution, are unable to achieve protection for the affected person from these dangers. Therefore, civil liability, in the field of environmental pollution, tends towards objective liability.

Chapter II:

Legal Basis for Protection of Environment according to General Rules in UAE Law

Preamble:

Legal thought has evolved a lot on how to deal with environmental civil liability, after the risks that occur to the environment and the damage to society have increased. Hence many theories have emerged; competing about the extent to which they are related to harmful work, and liability for harmful environmental work can be attributed to them. Jurisprudence tried to link these theories, to which the rules of civil code are applied, to environmental liability. These theories are: the subjective theory, risk theory, insurance theory and some other theories that try to restructure the rules of civil liability to be consistent with the protection of the environment from pollution. In the following lines, those theories and their application to our research will be addressed.

Theme I: Subjective Theory as a Basis for Environmental Protection

Theme II: Objective Theory as a Basis for Environmental Protection

Theme I:

Subjective Theory as a Basis for Environmental Protection

Subjective theory or fault theory requires the existence of a fault, which is the basis of liability, and the affected person has the burden of proving the fault so that civil liability can be established, on the grounds that civil liability aims to blame and punish the liable person who made the fault, including obliging him to compensate the affected party as a sanction. This has the character of punishment despite the separation of civil liability from criminal liability.^{xiii}

If the elements of liability are available, in the field of environmental damage, there is usually no contract between the culprit and the affected person. Thus, the occurrence of damage is not a result of non-compliance, but this does not preclude the occurrence of contractual liability if its elements are fulfilled. Also, the tortious

liability is broader in scope than the contractual liability, and it is related to the public order. Therefore, it is not permissible to agree on mitigation or exemption from it, and the compensation in it is compensation for any direct damage, whether expected or unexpected.^{xiv}

First: Environmental Fault:

Article (71) of the UAE Federal Law No. 24 dated 17/10/1999 on the protection and development of the environment , as amended by Federal Law No. 11/2006 dated 07/05/2006, stipulates that whoever causes, by his act or negligence, damage to the environment or to the others as a result of violating the provisions of this law or the regulations or decisions issued in implementation thereof shall be liable for all costs necessary to repair or remove such damage, as well as any damages that may result therefrom.^{xv}

The French doctrine and jurisprudence have settled on the definition of fault as a breach of a legal obligation of conduct, which is that the person shall exercise vigilance and foresight in his conduct so as not to harm others. A fault is a person's deviation from the required conduct, based on realization and perception.^{xvi}

The act of causing damage in the UAE law is intended to prejudice a right or a legitimate interest, and this occurs either by:

- a positive means (positive fault): When the limit is exceeded (not causing harm to others), for example: causing damage to others' money;
- or by a negative means (negative fault): When a damage is caused by a negative act (the failure to reach the limit that must be reached), for example: when a person entrusts his son to a swimming teacher to teach him swimming, if the son drowned, the coach would be liable for him because he failed in his duty, which is to preserve the safety of this child from drowning, and his drowning is evidence of negligence.

Damage points include all forms of aggression, whether intentionally, negligently.

As for applying the concept of causing damage, in general, to environmental liability, there is no doubt that Article (282) of the Federal Civil Transactions Law

and Article (163) of the Civil Code apply to environmental damage when the affected person proves the fault of the person who caused the damage and the causal relationship between this fault and the damage suffered by him. Deviation from the environmental legislation constitutes an illegal act by the perpetrator, and he must be prosecuted to compensate for that damage through civil liability. Some see that in proving the fault of the liable person, the affected person is not necessarily required to prove that the damage suffered was unusual.^{xvii}

Environmental fault is considered a serious risk, as it often harms the environment, such as the technological hazard, which is associated with industrial hazards resulting from industrial progress, causing severe financial damage and sometimes causing negative effects that are difficult to remedy.^{xviii}

The Liability is established whether the fault by the liable person is a deliberate one, an unintended one, or a result of negligence or lack of care. The positive fault, which is represented in doing an activity that is harmful to the environment, and the negative fault, which is represented in the reluctance to do an act that should have been done^{xix} which affects the environment, for example a person liable for protecting the environment fails to notify of environmental damage; are equal.

There is no doubt that when the fault on the part of the perpetrator is proved, he is obliged to bear the damage resulting from his fault, and therefore it will be easy for the judge to compensate the affected person, and to prevent or stop the illegal activity^{xx}. The fault, that must be proved, is that one resulting in a clear danger as a basis for the tortious civil liability resulting from the personal act. Deviating from the legislation providing for the environmental damage; constitutes an illegal act, and therefore it is easy to prove the environmental fault, for example, when individuals dispose of solid or liquid waste into a river or waterways, it constitutes a fault in the behavior of those individuals.^{xxi}

Second: Environmental damage

First: Concept and Elements of Damage

The element of damage or fault alone does not lead to the establishment of liability, but the affected person must suffer damage as a result of this damage so that the court can accept his claim. This is considered an application of the rule confirmed by the jurists of the Code of Civil Procedure; providing for that there is no lawsuit without interest^{xxii}. The damage is the harm that affects a person in his body or in his money and inflicts financial loss and this is the material damage. Harm "damage" also may occur to non-financial rights and interests such as in the feelings, reputation, feeling of pain due to an injury to the body, freedom, or honor or other meanings that people are keen on, and this is called moral damage. Damage, in general, is what affects a person in one of his rights or a legitimate interest protected by law.^{xxiii}

This basis did not budge despite the development of the theory of liability, the development that began - as mentioned before - with the fault that must be proven and ended with liability without fault, but the common denominator between them is the existence of damage revolving around the liability of compensability of the affected person, as the most important objective of liability regulations^{xxiv}. As some say, the damage is the first spark that emits thinking about the accountability of the perpetrator and determining the lawsuit in the face of him to obtain compensation for damage.^{xxv}

Environmental damage has two main characteristics: generality and non-specificity. As for generality, as mentioned before, it means that these effects do not appear immediately after the occurrence but extend for successive generations. As for non-specificity, it means that it is often difficult to determine the sources of these environmental damage conclusively, so it is difficult to identify the effects of environmental damage if their results appear after a long period of time, as other sources may contribute to their creation, making it impossible to determine their true sources.^{xxvi} We believe that material compensation, whatever its amount, does not remove environmental damage in general, as there is damage that last for long periods; making it difficult to restore the environmental balance.

Environmental damage has a specificity that makes it difficult to determine the damage establishing the liability and the compensability for it, as environmental damage differs from other damage in terms of: its impact, time of occurrence and source, as well as blending with other elements. Some argue that^{xxvii} it must be called "discovered damage" in order to be more appropriate to the specific nature of such damage without likening it to indirect damage, just as being limited to the traditional rules of liability leads to the fact that most of the environmental damage does not fall within the scope of this lawsuit because it is impossible to say that we are dealing with direct environmental damage. In addition, the repair of environmental damage is more important than monetary compensation, as the longer pollution continues without stopping it, the greater the environmental risks and the multiplication of their effects are; for the sake to restore the environmental balance, which is required by justice.

Third: Causal Relationship between Fault and Environmental Damage:

Causing damage and damage are not sufficient for the establishment of liability, but causing damage must be the direct cause of the damage suffered, which is expressed in the causal relationship, and affected person, the claimant, has the burden of proving this causal relationship.

Although the jurists have focused in the research in the field of causing damage and damage, the subject of the causal relationship between causing damage and damage did not obtain the sufficient portion of the research^{xxviii} to know the extent of the possibility of adherence or not and the implications of that, and we will also highlight the meaning of causation to the extent that serves the topic.

We will not present the various theories^{xxix} developed in the field of causal relationship and there are many difficulties in the causal link in environmental liability and whether this link is the multiplicity of causes or the sequence of damage. These difficulties constitute a stumbling block to determining the causal link, hence the importance of the causal link in determining liability stems because environmental damage may be caused and entail other damage. Accordingly, it is

necessary to know the causal link to know who will bear the first damage and who will bear the other damage resulting from it.^{xxx}

It is difficult to prove the causal link between fault and damage, as such damage that is not a direct result of fault is outside the scope of application of liability rules.^{xxxi}

The causal link in the civil liability for the environmental fault arising from climate change^{xxxii} is the existence of a direct link between the fault by the actor, whether it is positive or negative, and the damage caused, i.e. the damage that resulted from the act, whether to natural persons, legal persons or whoever suffering the damage. Because the causal link forms the third element of tortious civil liability, the person who committed the fault is not obliged to compensate unless his fault is the cause of the damage.

It is noteworthy that the following conditions are required for the establishment of causal link:

1. it is a de facto link not a legal one entailing legal effects, and therefore examining the existence of the link, and determining whether it is the real cause of the accident or not, are left to the discretion of the trial judge to rule on the matter according to his experience and the circumstances of the accident;
2. the damage is an inevitable and necessary consequence of this fault. The Court of Cassation ruled that it is not sufficient that there is a fault by the person, but rather it is necessary that the damage is an inevitable and necessary consequence of this fault, and if this fault did not exist, the damage would not occur, and accordingly there is a causal link between the fault and the damage.^{xxxiii}

The Court of Cassation has ruled that the causal link is considered a presumption in favor of the affected person, so when the affected person proves the fault and the damage, and the fault would cause the damage, then the presumption is available. The liable person may deny that presumption, as well as the causal link, by arguing that the damage has arisen from a foreign cause that he has no hand in.^{xxxiv}

The Court of Cassation has also ruled that describing an act or omission as a fault or not fault is one of the legal issues in which the trial judge is subject to the oversight of the Court of Cassation, but the causal link between fault and damage is one of the matters of facts which fall under the exclusive authority of the trial judge without any oversight by the Court of Cassation except in the case of defective in reasoning.^{xxxv}

Theme II: Objective Theory as a Basis for Environmental Protection

The objective theory does not require the availability of fault and only looks at the person's financial liability, where the person is liable for the damage that occurs due to the things that are under his custody and liability. It is based mainly on the idea of "privilege must be paid for" which means that whoever benefits from something must bear its damage. This theory has also been criticized for its conflict with the provision of Article (163) of the Egyptian Civil Code because it is based on the presumed fault not the established faults as confirmed by the aforementioned article. But in spite of this criticism, this theory has received great acceptance from jurisprudence because the affected person does not need, for obtaining compensation, to prove the fault because once the damage occurred and the relationship exists, he receives the compensation. The Egyptian Court of Cassation has ruled that whoever uses his right illegally is not liable for the damage that results from that, given that the basis for liability for compensation is the occurrence of the fault... and there is no fault if the right holder uses this right to bring the available benefit from it. This theory places the liability on the entity, whether it is a natural or legal person, and accordingly, its employees do not bear any causal liability between it and the activity of the liable person. Also, the basis for the liability is just causing the damage regardless of the fault.

Some also relied on insurance theory that is based on the idea of social solidarity. According to this theory, society is obligated to ensure the safety of its members and their money and any damage that occurs must be compensated for. To get rid of liability, the superior (employer) may prove that he has no relation to the cause of harm suffered by the affected person, and he also may refer to the subordinate (worker) due to what he had caused to the affected person. This theory has been

criticized as it is more descriptive than being a valid one to provide the legal justification for the superior's liability in addition that it is similar to the theory of risk.

Furthermore, some also relied on the theory of unfamiliar neighborhood harms, which is mainly based on providing protection for the environment through the expansion of the concept of neighborhood and the implementation of the rules of liability. This theory is related to the idea of ownership and the unusual harms caused by the neighbor to his neighbor such as "fumes, sounds, smells and lights" and others.

That theory replaces the subjective liability resulting from a personal act, because every person causing damage is obliged to compensate the affected person for the damage suffered, whether the damage was caused intentionally or negligently.^{xxxvi}

This theory is based on the necessity that the neighbor must not cause an unfamiliar harm to his neighbor. The supporters of that theory relied on the provision of Article (807/1) of the Egyptian Civil Code as well as Articles (651) and (1370) of the French Civil Code. It is known that nuclear pollution does not have natural or political boundaries, as any nuclear accident in an atomic facility will not only affect its workers only, but also extends to peoples in other regions and the extent of this effect may expand in auxiliary weather conditions to extend beyond them. This is what has occurred at the English atomic facility "Windscale", where the accident resulted in an increase in the radiation recorded in the area from 500 to 1000 km in measuring stations in Scandinavia. This example represents a type of environmental pollution and the liability of the owner is established, so he bears the compensation even if there is a license for him to practice that activity. As believed by other supporters of that theory, the liability stipulated in this theory is established when the damage exceed the normal damage to the neighborhood, regardless of whether there is a fault or not.

Some believe^{xxxvii}, and we agree with them, that the conditions required by the legislator in Article (807) of the Egyptian Civil Code regarding the owner's liability for the unfamiliar neighborhood harms, which are: the obligation to prove the unfamiliar harm caused to the neighbor, and to prove the owner's excessive use of his right, are strict conditions that are no longer commensurate with the nature

of environmental damage. It is believed that proving the neighborhood harm, such as pollution, is enough.

The Court of Toulouse in France convicted one of the companies and obliged it to pay annual compensation to farmers to the extent of the damage they suffered and according to the annual prices of agricultural crops. Although no fault was proven on the part of that company, the Court obligated it to compensate. That company, which was an aluminium industrial company, was emitting gases with a detrimental effect on crops. As a result, the farmers were harmed because their agriculture had been badly influenced, so the court obliged the company to install technical devices and equipment to prevent the emissions of these gases into the atmosphere. Although the company used the state-of-the-art equipment and the court acknowledged that it had done everything in its power, it ended up paying the compensation, as mentioned before^{xxxviii}. Some have rejected this theory^{xxxix} because it arises only by a legal provision because the basis of the obligation is the existence of a legal obligation, on the owner in using his property, not to cause harm to others beyond familiar boundaries, in addition that this theory arises between neighboring owners and it is therefore difficult to apply to others.

Chapter III:

Role of UAE law in Achieving Sustainable Development of Environment

Sustainable development has three dimensions: economic, social, and environmental. The economic dimension focuses on preserving the existing resources through the optimal use of those sources without reducing real income in the future. It also leads to the commitment of the developed countries to reduce the consumption of resources, and the commitment of the developing countries to take the initiative to optimally use the resources in order to improve the citizen's standard of living. The economic dimension is achieved through economic development, energy, stimulation of innovation and raising the efficiency of government institutions. As for the environmental dimension, it focuses on the optimal use of natural and environmental resources such as agricultural land and water resources in

addition to preserving the environment from various risks such as pollution and climate change. As for the social dimension, it focuses on the improvement and sustainability of social services such as education and health.

In light of this, we will divide this chapter into two themes as follows:

Theme I: Concept of Sustainable Development

Theme II: Role of UAE Law in Development of Environmental Resources

Theme I:

Concept of Sustainable Development

The term "sustainable development" has become widely used in laws, politics and media, and it means: that development which meets the needs of the present generation without jeopardizing the needs of the future generation. Some international documents have defined "development" as it is the desired change based on social goals, while "sustainable" was defined as the elimination of the negative effects of human activities on the environment.^{x1}

Many international conferences have been held under the auspices of some international organizations concerned with environmental affairs. the United Nations has also contributed to this dimension by seeking to draw the attention of countries to reconsider their consumption and production, to commit to environmentally responsible economic growth, and to work together to expand cross-border cooperation for the exchange of expertise, technology and resources.

One of the most prominent conferences held in this regard under the auspices of the United Nations was the Earth Summit, during which delegations of countries expressed their convergence of views on the environmental problems at hand.

This summit was preceded by the Stockholm Conference in 1972, through which the delegations of many third world countries expressed reservations about the policy of developed countries in combating industrial pollution for political

reasons related to the development platform followed in these countries in that period, which aims to adopt industrial rules that help them get out of underdevelopment.

The UAE legislator has defined sustainable development as linking environmental considerations with planning and development policy in a manner that achieves the needs and aspirations of the present without prejudice to the ability to achieve the needs and requirements of the future.^{xli}

It is clear from the UAE legislator's definition of sustainable environment that he gives it a concept aiming at reconciling a sustainable social and economic development with environmental protection, i.e. the inclusion of the environmental dimension in the framework of development that ensures meeting the needs of present and future generations.

There is no doubt that this concept is theoretically consistent with what was called for by international conferences on this subject, but from a scientific point of view, it is noted that economic development in many countries is at the expense of the environment, despite the large number of provisions that emphasize the need to take the environmental dimension into account, as there are no solutions developed to many problems such as treatment or disposal of various waste produced by industrial and urban activities.

The protection of the UAE environment is one of the basic pillars of sustainable development, and experts regard it as a mechanism associated with development plans. This mechanism has succeeded in achieving many accomplishments at the level of environmental work within the UAE. Accordingly, the facilities and factories were subject to the laws regulating the protection of the environment and the preservation of natural resources and wildlife, and the requirements for preserving the environment have become a cornerstone of development.

With regard to the industrial boom witnessed by the UAE and the challenges of this environmentally, it is worth noting that hazardous waste is quantitatively and qualitatively treated in an organized manner and tight control by the UAE authorities. Moreover, legislation has been developed to regulate the process of dealing with this type of waste in various regions of the Emirates, and a database

has been established that determines the quantity, sources and types of hazardous waste. The management of this hazardous waste in the optimal scientific way is a preservation of the safety of the environment and human health.

Theme II:

Role of UAE law in Development of Environmental Resources

It is certain that multidimensional sustainable development requires, to achieve its goals, international cooperation and concerted efforts of various actors at the internal level. These goals can only be achieved according to legal mechanisms that work to transfer ideas, visions and theories to reality. As much as the need for the law, the sustainable development requires the activation of the provisions of this law on the ground. Pollution is a scourge that threatens the countries of the world, especially the industrial ones. It is a tax for economic and industrial development, which undoubtedly leads to an increase in the proportion of environmental waste in all its forms. The countries of the world are now seeking a clean healthy environment, that is characterized by the purity of the air from all pollutants, and the cleanliness of the earth from all its distortions and industrial and agricultural waste in addition to the preservation of all environmental sources and resources from depletion in light of the growing international interest in protecting the environment and the beginning of adopting the concept of sustainable development. The UAE has been interested since early in preserving the purity of the environment and reducing its pollution, believing that comprehensive development should not be a negative factor that leads to disturbing the environmental balance, but the comprehensive development and environmental balance are complementary factors to each other that lead to achieving advancement and prosperity for man wherever he goes in this good land. We will clarify the role of the UAE in caring for the environment at the internal and international levels as follows:

First: Role of UAE in Caring for Environment at Internal level:

The United Arab Emirates seeks to build a sustainable future that ensures stability and safety for generations, by adopting a sustainable strategy in preserving the

environment, and a methodology based on achieving a green economy, as one of the most prominent features of sustainable development paths that help it achieve the UAE Vision 202 aiming at:

- reducing oil and gas flaring;
- developing technologies that achieve energy efficiency in industry;
- using clean fuels;
- rationalizing energy in smart ways that encourage rationalization of consumption;
- adopting green building standards;
- providing sustainable means for public transport,

all of which seek to promote standards of efficiency, effectiveness and environmental sustainability in everyday life.^{xlii}

The UAE is interested in promoting the values of preserving the environment and moving towards achieving sustainable development goals, of which preserving the environment is one of its top priorities, by involving all members of society in achieving these goals, along with specialized institutions and bodies.

The UAE seeks, through its initiatives and strategies, to preserve the environment because this is important for preservation of life in all its fields. That is why, the UAE, since the era of Sheikh Zayed bin Sultan Al Nahyan, may Allah have mercy on him, has made great efforts in environmental sustainability, the cultivation of desert land, encouraging innovation in this field, and preserving natural reserves, turning them into green land, which must be achieved through the solidarity of all, including institutions, individuals and communities, through a group of projects, services and programs that contribute to the development of sustainable social, environmental and economic development.^{xliii}

The UAE has realized, for many years, the importance of preserving the environment, and the role of individuals, communities and institutions in adopting behaviors that achieve well-being and stability, within an environmentally safe space, especially in the field of reducing emissions resulting from transport. Therefore, the axes of the national policy to reduce emissions and pollution in the transport sector focus on encouraging the use of public transport,

the use of self-driving cars, electric cars, and adopting a conscious behavior that keeps pace with the requirements and needs in transportation meeting the aspirations of users and preserving their environment in a healthy and sustainable manner, by reducing any serious impacts on the atmosphere, weather, climate, water, soil, flora and fauna, for the sake of enhancing environmental health, in the medium and long term.

Sheikh Zayed, may his soul rest in peace, was interested in increasing the green areas, combating desertification, preserving the local environment and the animals in it and establishing reserves. He planted trees in cities and gave the citizen the opportunity to perform this task by giving him agricultural land and providing him with the necessary material for it. He also carried out many projects, including the (Green Mubazzarah) project, where Jebel Hafeet was covered with green plants, in addition to several natural reserves such as Sir Bani Yas Reserve. Sheikh Zayed also passed laws that prevent overfishing and overhunting of rare and endangered animals, which has had a profound impact on the conservation of these animals. Here are some of the country's achievements in preserving the environment.^{xliv}

Second: Role of UAE in Caring for Environment at International level:

The UAE's interest in the environment is not limited to the local level, but goes beyond to the international level. the UAE preceded the international community in caring for the environment, developing its resources and preserving it, as the Emirati vision is that preserving the global environment is the responsibility of all human beings which is not limited by political borders. The UAE hosted the headquarters of the International Renewable Energy Agency (IRENA) and entered the Guinness Book of Records as the first country in the world with that number of palm trees, as their number reached more than 40 million palm trees, and the state built dams to increase the groundwater level.

The UAE has created natural reserves, which are remarkably widespread in the country, including Ras Al Khor Wildlife Sanctuary, in which the number of animal and plant species is estimated at 313 species, Sir Bani Yas Reserve, where the reproduction of giraffes stands out, the Samaliya Reserve, Qarnayn, Delma and Jebel Ali, as well as marine reserves in Fujairah.

Dubai is the first Arab city to join Earth Hour, and the Government of Dubai has decided to turn off thousands of lights across the city, with the support and participation of major companies in it, which would reflect the power and impact of collective action in bringing about the required change.

The United Arab Emirates has paid special attention to the development of the agricultural sector, and its experience in combating desertification, planting forests and transforming deserts into fertile agricultural land has become a pioneering experience at the global level despite the lack of water sources and the scarcity of rainfall.

The Ministry of Environment and Water has promulgated several legislation and regulations aiming at preserving soil; protecting plants, trees and biodiversity and combating desertification. For the sake of afforestation, the state has prepared agricultural land and distributed it to citizens.^{xlv}

Continuing efforts to sustain the environment, and moving through it to a future that guarantees the lives and future of generations, have led the UAE towards international commitment to address climate change that affects all areas of life, and regard it as a golden opportunity to continue the process of sustainable development that contributes to improving the quality of life by maintaining a healthy and balanced environment. For example, the National Climate Change Plan (2017-2050), which is the first of its kind in the region, is a comprehensive framework to reduce the environmental triggers, reduce the severity of its repercussions, and ensure a transition to a green economy that is resilient to climate change caused by greenhouse gas emissions.

The UAE also considers the involvement of all entities in climate action efforts, such as government and semi-government institutions, the private sector, civil society institutions, and individuals, one of the most important criteria necessary to: enhance sustainability, improve the quality of life, and transform into an environmentally friendly country, based on a development vision aiming at increasing green spaces, developing water resources, improving the marine environment and protecting it from pollution, preserving fisheries and livestock, and protecting biodiversity.^{xlvi}

Conclusion

The phenomenon of environment abuse is one of the phenomena that has become a real challenge to global food security. The population explosion has contributed to the release of a huge amount of greenhouse gases necessary to meet the growing needs of water and food. The changes known in the environmental field are a bet and a challenge for countries and communities at the international and national levels. Indeed, the climate problem and its environmental impacts have become a tangible reality, which imposed the development of legal rules and requirements at the international level to relatively reduce the impacts and increasing scope of these climate changes. In this regard, international climate summits have emerged, as well as the acceleration of the enactment of environmental laws in all countries of the world, especially the Arab countries.

The problem of the environment is an objective fact that must be treated as a real danger facing humanity. The environmental laws remain limited to the need to apply them in all countries, especially those contributing to these changes by reducing emissions.

Recommendations:

1. We call for the expansion towards investments in the field of new and renewable energy, green economy and increasing the green spaces by planting a fence of perennial trees because they play an important role in purifying the air, absorbing carbon dioxide and tempering the air temperature, in order to achieve sustainable development.
2. We recommend updating the Environmental Protection and Development Law to face the novel climate variables.
3. We recommend that the Environmental Protection and Development Law include a provision for the final closure of the facility and withdrawal of its license if it is proven that there is significant damage on the part of the facility, but if the damage can be repaired and pollution can be avoided, this does not prevent the possibility of temporarily closing the facility or modifying its activity so as not to harm the environment.
4. The concept of the environment must be established in the conscience of individuals and their environmental awareness must be raised in order to know that the environment is part of them and they are part of it.

ⁱ Dupuy, Rene-Jean, L'Océan partage: analyse d'une négociation: 3e Conférence des Nations Unies sur le droit de la mer, A. Pedone, 1979. pp.1-2.

ⁱⁱ Dr. Ahmed Abdul-Karim Salama, Environmental Protection Law, Course on National Regulations, Publications of King Saud University, Kingdom of Saudi Arabia, 1997, p. 123.

ⁱⁱⁱ Dr. Saad Ali Ahmed Ramadan, Involuntary Sources of Obligation according to the Emirates Civil Transactions Law and the rulings of both Dubai Court of Cassation and the Federal Supreme Court, Dar Afaq for Publishing and Distribution, United Arab Emirates, year 2021, p. 11.

^{iv} Dr.

^v Dr. Ali Issa Al Jasmi, the law applicable to the harmful act applied to work injuries and environmental pollution, Sharjah, 2011 AD, p. 9.

^{vi} Dr. Aziz Kazem Jabr: Ricochet damage and its compensation in tortious liability, Dar Al-thaqafa Library - Amman - Jordan - 1998 - p. 9

^{vii} Dr. Saeed Saad Abdel Salam: the previous reference, p. 98 et seq

^{viii} Appeal No. 327 of the judicial year of 72, hearing of 22/5/2003

^{ix} Dr. Muhsin Abd al-Hamid al-Bayyah: the previous reference, p. 66 et seq

^x Appeal No. 621 of the judicial year of 23, hearing of 27/06/2004

^{xi} Article (71) of the UAE Federal Law No. 24 dated 10/17/1999 AD on environmental protection and development, as amended by Federal Law No. 11/2006 dated 05/7/2006 AD

^{xii} Dr. Saeed Qandil, Mechanisms for Compensating for Environmental Damage, Dar Al-Nahda Al-Arabiya

- ^{xiii} Egyptian mixed appeal on March 29, 1944, 56, p. 98
- ^{xiv} Dr. Fathi Abd al-Rahim Abd Allah: Studies on Tortious Liability - towards objective liability - Mansha'at al-Ma'arif - Alexandria - 2005 - p. 14.
- ^{xv} Article (71) of the UAE Federal Law No. 24 dated 10/17/1999 AD on environmental protection and development, as amended by Federal Law No. 11/2006 dated 05/7/2006 AD
- ^{xvi} Refer to our doctoral dissertation on civil liability arising from the breach of the obligation to confidentiality, a comparative study of Islamic jurisprudence, Faculty of Law, Mansoura University, 2006, p. 204.
- ^{xvii} Egyptian Appeal No. 4237 of the judicial year of 73, hearing of 16/12/2004 and Egyptian Appeal No. 116 of the judicial year of 71, hearing of 03/06/2004
- ^{xviii} Dr. Ahmed Mahmoud Saad: the previous reference - p. 173.
- ^{xix} Refer to Egyptian jurisprudence: Dr. Muhsin Abd al-Hamid al-Bayh: the previous reference - p. 25 et seq.
- ^{xx} Refer to the Egyptian jurisprudence: Dr. Muhsin Abd al-Hamid al-Bayh: the previous reference, p. 27, p. 25 et seq.
- ^{xxi} Dr. Saeed Saad Abdel Salam: the previous reference - p. 24
- ^{xxii} Dr. Fathi Wali, Civil and Commercial Procedures, Dar Al-Nahda 1997, p. 24; Dr. Fathi Wali - Mediator of the Civil Justice Law - Cairo University Press 1986, p. 63, No. 35
- ^{xxiii} Dr. Fathi Abdel-Rahim Abdullah, Al-Wajeez in the General Theory of Obligations, previous reference, p. 89
- ^{xxiv} Dr. Ahmed Mahmoud Saad: the previous reference - p. 221
- ^{xxv} Dr. Hamdi Abdel-Rahman Ahmed: Sources of obligation - Dar Al-Nahda Al-Arabiya - Cairo - 1997 - p. 313
- ^{xxvi} Dr. Saeed Saad Abdel Salam: the previous reference - p. 30 et seq.
- ^{xxvii} Dr. Ahmed Mahmoud Saad: the previous reference - p. 226 et seq.
- ^{xxviii} Dr. Abdul Rashid Mamoon, The Relationship of Causation in Civil Liability, Dar Al-Nahda Al-Arabiya, Cairo, p. 2
- ^{xxix} The opinions of jurists have varied in answering what is meant by the causal relationship. There are two main theories, namely the theory of multiple causes and the theory of productive cause. To know the content of each theory and the criticism directed to it - see:
Jean-Christophe Couvenhes, La notion juridique de clérouquie/clérouchie, d'Athènes à Alexandrie, in Biscotti (B.), éd., Kállistos Nómos. Scritti in onore di Alberto Maffi, Turin, G. Giappichelli editore, 2018, p. 55-70; and Dr. Fathi Abd al-Rahim Abdullah, previous reference, p. 101, Dr. Mohsen Abdul Hamid al-Bayh, previous reference, p. 77
- ^{xxx} Dr. Abdul Rashid Mamoon, The Relationship of Causation in Civil Liability, Dar Al-Nahda Al-Arabiya, Cairo, p. 3
- ^{xxxi} Dr. Ahmed Mahmoud Saad: the previous reference - p. 213
- ^{xxxii} The causal relationship in the criminal law is not different from the civil law, as it determines the act that caused the damage among the many acts surrounding this act, so the damage is established, and if the cause of its occurrence is the fault of the perpetrator, then the liability is established.
- ^{xxxiii} Appeal No. 436 for the judicial year 22, hearing of 6/14/1956, Technical Office 7- Part 2
- ^{xxxiv} Civil Cassation No. 444 for the judicial year of 34, hearing of 28/11/1968, set of cassation provisions, the judicial year of 19, Technical Office, Part 3.
- ^{xxxv} Dr.
- ^{xxxvi} Civil Cassation No. 3535 of the judicial year of 46, 58, the hearing of 05/01/1995
- ^{xxxvii} Dr. Muhsin Abd al-Hamid al-Bayyah: the previous reference, p. 74
- ^{xxxviii} Dr. Hassan Abd al-Basit Jamei: the previous reference, p. 147
- ^{xxxix} Dr. Ahmed Mahmoud Saad: the previous reference, p. 278
- ^{xl} Dr. Muhammad Qadri Hassan, Legal Protection of the Environment in the United Arab Emirates, Bright Horizons Publisher, Jordan, 2013, p. 11.
- ^{xli} Dr. Muhammad Qadri Hassan, Legal Protection of the Environment in the United Arab Emirates, Bright Horizons Publisher, Jordan, 2013, p. 11.
- ^{xlii} Dr. Muhammad Qadri Hassan, Legal Protection of the Environment in the United Arab Emirates, Bright Horizons Publisher, Jordan, 2013, p. 11.
- ^{xliii} Dr. Sahar Mostafa Hafez, Legal Protection for the Fresh Water Environment in Egypt, Al-Dar Al-Arabya for Publishing and Distribution, Cairo, p. 38.

^{xliv} Dr. Muhammad Qadri Hassan, *Legal Protection of the Environment in the United Arab Emirates*, Bright Horizons Publisher, Jordan, 2013, p. 11.

^{xlv} Dr. Sahar Mostafa Hafez, *Legal Protection for the Fresh Water Environment in Egypt*, Al-Dar Al-Arabya for Publishing and Distribution, Cairo, p. 38.

^{xlvi} Dr. Sahar Mostafa Hafez, *Legal Protection for the Fresh Water Environment in Egypt*, Al-Dar Al-Arabya for Publishing and Distribution, Cairo