

Legal protection of the human right in a healthy environment in Iraqi law

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Abstract: Environmental protection is currently one of the most important problems facing the countries of the world, and one of the most complex difficulties that preoccupy human societies, peoples, groups, and individuals. The study relied on the analytical research method, and It dealt with the analysis the texts of the Environmental Protection and Improvement Law No. 27 of 2009 and to take note of the provisions and mechanisms decided by the Iraqi legislator to protect and improve the Iraqi environment in the aforementioned law. In order to reach a full presentation of the research topic, the research was divided into five demands, the first was devoted to defining the term legally evidence, the second dealt with the types of environment, while the third was devoted to the legal basis for the administration's authority to protect the environment, and the fourth was devoted to the department concerned with environmental protection, and was devoted The fifth is for means of protecting the environment from the harmful effects of pollution, then the research ended with a conclusions that summarizes its findings and suggested recommendations regarding its topic. In view of the development in all industrial and agricultural fields and the great environmental damage that resulted from this development, and in order to maintain a healthy environment free of pollutants, the Iraqi legislature initiated the issuance of the Environment Protection and Improvement Law No. 27 of 2009 in order to advance the environmental reality in the country. The law came in line with environmental developments, but the mechanisms taken by the administrative authorities in implementing this law are weak, which led to this weakness to the deterioration of the environmental reality in the country, In order to develop these mechanisms, we suggest that a higher council for environmental protection be formed, linked to the prime minister, that monitors the implementation of the mechanisms by the administrative authorities concerned with the environmental aspect.

Key words: Domestic Violence, Women, Covid-19, World Health Organization, Conflicts.

Introduction

Environmental protection is currently one of the most important problems facing the countries of the world, and one of the most complex difficulties that preoccupy human societies, peoples, groups, and individuals. After the industrial revolution appeared and through specialized studies and research in various fields of industrial, agricultural, and service production, concerned parties in the field of environment realized that there is a danger that may lead to the extinction of all life forms if the production continues in all aspects of our life without controls that curb continuous violation of the balance of the elements of the environment and restraining the increasing depletion of its natural resources. And within the framework of a broader vision of the environment, and more comprehensive solutions to its problems and issues, the Iraqi legislature issued the first law for the protection and improvement of the environment, Law No. (76) of 1986, according to which the Supreme Council for the Protection and Improvement of the Environment assigned the tasks of Drawing up the general policy for protecting and improving the environment in Iraq, approving its controls and standards, issuing instructions and decisions necessary to implement its plans and programs, following up on their implementation, and monitoring compliance with them. it was also empowered to take appropriate measures and impose penalties against environmental transgressors and perpetrators of harm, and in Iraq, the Iraqi legislator issued the Environment Protection and Improvement Law No. 27 of 2009, and instead of the legislator giving powers to the administrative authorities concerned with protecting the environment, we note that he has restricted the role of the Environment Protection Council and made Its role is only advisory.

Research problem

The research problem may raise many questions in the field of environment, as follows? What are the mechanisms to be implemented? And who are the concerned parties and formations? What are the powers vested in each party or formation in drawing up environmental policies, or in planning, implementing and monitoring environmental programs and plans? ... and other than these questions, which all fall within the problem of knowing the legal regulation for environmental protection in Iraqi legislation, which requires familiarity with it, and knowledge of all aspects of its subject matter, for us to

re-read the texts of the Environment Protection and Improvement Law No. 27 of 2009.

The importance of the research

Familiarity with the legal system for protecting the environment in Iraq, and knowing its provisions and mechanisms, as it leads to understanding the vision of the Iraqi legislator and its orientations towards the issue of the environment. and necessity to understand the nature of the problems and crises that the Iraqi evidence suffers from, and to know the foundations of the solutions required for them. Or at least the features of those solutions

Methodology of the study

The study relied on the analytical research method, and It dealt with the analysis the texts of the Environmental Protection and Improvement Law No. 27 of 2009 and to take note of the provisions and mechanisms decided by the Iraqi legislator to protect and improve the Iraqi environment in the aforementioned law.

Research structure

In order to reach a full presentation of the research topic, the research was divided into five demands, the first was devoted to defining the term legally evidence, the second dealt with the types of environment, while the third was devoted to the legal basis for the administration's authority to protect the environment, and the fourth was devoted to the department concerned with environmental protection, and was devoted The fifth is for means of protecting the environment from the harmful effects of pollution, then the research ended with a conclusions that summarizes its findings and suggested recommendations regarding its topic.

The first demand: definition of the environment

The Iraqi legislature established the Environmental Protection and Improvement Law No. 27 of 2009 as (the surrounding with all its elements in which living organisms live and the effects resulting from economic, social and cultural human activities) ⁽¹⁾

The environment is a right on the one hand and a duty on the other hand, the environment is one of the basic human rights, In addition to political, civil and social human rights. the right to a healthy environment free from pollution is one of the most important human rights, especially after the tremendous development in the civil and military industrial field and the resulting pollution, as countries have been keen to protect The human right to a healthy environment through the enactment of the necessary laws guaranteeing the protection of this right, as this right has been affirmed by many judicial rulings and from these rulings of the European Court of Human Rights in the (LOPEZ-OSTRA) case, where the court ruled (that the right in the environment is related to the right to respect Private life and family life stipulated in Article (8) of the European Convention on Human Rights) ⁽²⁾, and in Iraq the Iraqi constitution has stipulated this right in Chapter One of Chapter Two on rights and freedoms by saying (First: Every individual has the right to live in sound environmental conditions. Second: The state guarantees the protection and preservation of the environment and biological diversity) ⁽³⁾. Since the environment is considered one of the basic rights of the human being, it is also one of the basic duties of the administration that it has the responsibility to protect, provide appropriate conditions for and protect it, and this is what most constitutions in the world have affirmed, and the administration's duty to protect the environment consists of two aspects: The downside and the positive side are as follows:

A- The negative side:

The duty of the administration in this aspect is the same as the case of any individual. It must abstain from all activities that would cause pollution in the environment. The administration, whether represented by its employees or their institutions, must refrain from polluting the environment.

B - The positive side:

As for the positive side, it is the responsibility of the administration to take all necessary measures and means to prevent any actions that affect the environment and lead to damage to it, as the administration must protect and improve the environment with all its elements from all Atrocities ⁽⁴⁾

The second demand: Types of the environment:

Given that the environment is subject to legal and administrative protection, it is divided into two parts: the natural environment and the artificial environment.

1- The natural environment:

It is all the natural elements surrounding humans, including water, air, soil, seas and oceans, and the natural forms Resulting from them such as rock formations, sandy or mountainous formations, as well as living organisms represented by plants and animals, and it is made up of four systems linked with each other, which is the atmosphere, Hydrosphere, land, biosphere ⁽⁵⁾

2- The artificial environment:

The new, human or industrial environment, where all these terms refer to one meaning, which is all created by human intervention in the natural environment in order to benefit from it in meeting his needs and meeting his increasing requirements due to technological progress, and environmental pollution is one of the most important risks That threaten human life ^{(6) (7)}

On this basis, we will address the definition of environmental pollution as follows

First: Defining environmental pollution in the Iraqi law: -

Where the legislator at the federal level defined pollution in the Environment Protection and Improvement Law No. 27 of 2009 as (the presence of any pollutants affecting the environment in an amount, concentration, or abnormal characteristic that leads directly or indirectly to Damage humans or other living creatures or non-living components in which they are found) ⁽⁸⁾, as the Iraqi legislator, through the aforementioned text, has intended to pollutants (i.e., solid, liquid or gaseous materials, noise, vibrations, heat, radiation, or the like, biological factors that lead Directly or indirectly, to harm the environment) ⁽⁹⁾

Second, pictures of environmental pollution: Environmental pollution takes many forms, which are:

A- Physical pollution:

It is meant pollution that affects one of the main elements of the environment (water, air, soil, food) and its effects on humans directly ⁽¹⁰⁾, where it is meant by air pollution (the increase in the concentration of substances foreign to the basic composition of air that affects the area. Health of the individual and lead to damage to his property) ⁽¹¹⁾ As most of the legislations have set legal texts to protect the air, as the Iraqi legislator counted the emission of fumes, vapors, gases, resulting from production operations or burning fuel into the air only after the necessary treatments were carried out to get rid of the pollution resulting from these emissions ⁽¹²⁾. As for what is meant by water pollution as (causing damage or corruption to the quality of the water, which leads to a defect in its ecosystem in one way or another, which reduces its ability to perform its natural role, as it becomes threatening to human life and harmful to living and non-living materials when used as well as missing many Its economic value, especially its resources of fish and other aquatic organisms of financial value, as well as the tourism resources derived from their exploitation) ⁽¹³⁾ As the Iraqi legislator added legal protection to protect water from pollution, as it prohibited any household, industrial, service or agricultural liquid waste The surface and underground internal resources or the Iraqi maritime fields except after carrying out the necessary treatments on them to ensure their conformity with the specifications specified in the environmental legislation ⁽¹⁴⁾, While the meaning of soil pollution is that (the introduction of foreign substances into the soil causes a change in its physical, chemical or biological properties, that eliminate the living organisms that colonize the soil and contribute to the decomposition process of organic materials that give the soil its value, health and ability to produce) ⁽¹⁵⁾. The Iraqi legislature has protected the land environment, as it prohibited any activity that leads directly or indirectly from damaging the soil or contaminating it in a way that affects its production capacity ⁽¹⁶⁾. As for food pollution, is meant the process of transforming foodstuffs from a useful state to a Harmful state to human beings ⁽¹⁷⁾. We note that the Iraqi legislator has neglected to put in place the legislative texts guaranteeing the protection of food in the Environment Protection and Improvement Law No. 27 of 2009.

B- non - physical pollution:

non - physical pollution emerged in several forms, as follows:

1- Electromagnetic pollution:

This type is considered one of the most dangerous types of pollution that affect humans and what is characterized by this pollutant being intangible, it may be a result of the leakage of radioactive nuclear materials into the air, water, soil or food, which results in fatal effects on humans, animals, and plants⁽¹⁸⁾. And that the Iraqi legislature has put in place many legislative texts to protect the environment from non - physical pollution and from these legislations (1- Protection from ionizing radiation Law No. 99 of 1980 amended, 2- Interim Coalition Authority Order No. 72 of 2004 relating to the Iraqi Commission for the Control of Radiation Sources Bylaw No. 1 of 2006 for the control of the use of radiation sources in Iraq)

2- Noise pollution:

Noise pollution is defined as (the group of sounds whose level exceeds the acceptable level that

is not harmful to humans) and by the unacceptable level is the level that results in pain in the ears and that exceeds 120 decibels. ⁽¹⁹⁾, As the Iraqi legislator has put in place the necessary legislation to ensure protection from noise pollution, as it has prevented exceeding the permissible limits for noise resulting from operating machinery, equipment, alarm devices, and loudspeakers. ⁽²⁰⁾

3- Light pollution

It is defined as (pollution resulting from human abuse in the use of light sources in a way that weakens the eye's ability to see, as the eye has specific energy with which it can see. ⁽²¹⁾ Whereas the Iraqi legislature did not address this form of pollution in the Environment Protection and Improvement Law No. 27 of 2009, however, it did address it in Traffic Law No. 86 of 2004. ⁽²²⁾

Third, the pollution rule:

The pollution ruling in all the laws that have been put in place to protect the environment is to prevent people from carrying out any activities that lead to damage the environment, and all persons are required to maintain and preserve it. ⁽²³⁾ The polluter rule has three legal descriptions, as follows:

1- Pollution is an administrative violation:

The Iraqi legislator considered pollution that occurs from persons and the practice of their daily works an administrative violation, ⁽²⁴⁾ as the second paragraph of Article 33 of the Environment Protection and Improvement Law No. 27 of 2009 stipulated that it gave authority to the minister from Punishing anyone who harms the environment is represented by a fine of not less than one million dinars and not more than ten million. This violation is repeated monthly until the violator ceases to work.

2- A pollution is an unlawful act:

Pollution is also considered an illegal act if it leads to damage to the environment in accordance with the provisions of the civil law that obligate anyone who causes harm to others to be compensated, as stated in the Law for the Protection and Improvement of the Environment in force where Article 32 stipulates (First: Whoever causes a personal act, negligence, or violation of laws, regulations, and instructions, harms the environment, must remove the damage within an appropriate period and to restore the situation to what it was before the occurrence of the harm by his own means and within the specified period of The Ministry and the conditions established by it).

3- Pollution is a criminal offense:

Where the Iraqi legislator has affirmed that pollution is a criminal offense, as it was mentioned in the Law for the Protection and Improvement of the Environment in force, which criminalized penalties in its texts for any act that leads to pollution of the environment, as it came in Article 34 (first, of Without prejudice to any more severe penalty stipulated by the law, the violator of this law and the regulations, instructions and data issued pursuant there to shall be punished with imprisonment for a period of not less than 3 three months or a fine of not less than one million dinars and not more than twenty million dinars, or with both penalties. With regard to committing the violation, as for Article 35, it stipulates that (violating the provisions of clauses (second) (third) and (fourth) of Article 20 of the law shall be punished with imprisonment and the hazardous or radioactive materials and wastes shall be returned to their origin or disposed of in a safe manner with compensation).

The third demand is the legal basis for the state's duty to protect the environment: -

Environmental protection is based on many legal foundations, the most important of which are:

1- The constitutional basis for the administration's authority to protect the environment:

The Iraqi constitution in effect on environmental protection has been approved, as stated in (First: Everyone has the right to live in sound environmental conditions, Second: The state guarantees the protection and preservation of the environment and biological diversity) ⁽²⁵⁾

2- The legislative basis for the administration's authority to protect the environment:

The Iraqi legislature enacted a law for the protection and improvement of the environment No. 27 of 2009, as the law contained many provisions for the protection and improvement of the environment, in addition to the law for the protection and improvement of the environment, there are several laws on which the administration relies, including (1 - Noise Law No. 21 of 1966 ⁽²⁶⁾, 2- Law on Protection from Ionizing Radiation No. 99 of 1980 ⁽²⁷⁾, 3- Public Health Law No. 89 of 1981 ⁽²⁸⁾, 4- Coalition Authority Order No. 72 of 2004 ⁽²⁹⁾, 5- Law of the Ministry of Environment No. 37 of 2008 ⁽³⁰⁾, 6 - Iraqi Forests and Woodlands Law No. 30 of 2009 ⁽³¹⁾, 7- Law of Protection of Wild Animals No. 17 of 2010 ⁽³²⁾)

The fourth demand, the Department Concerned with Environmental Protection:

Although the task of preserving the environment includes everyone, the presence of administrative Authorities specialized in protecting the environment is an imperative, especially after the risks of environmental degradation have increased, these devices are represented by the Federal Environmental Administration. The department concerned with environmental protection like the Council of Ministers, the Ministry of Health and Environment and the departments associated with it and the Federal Environment Protection and Improvement Council as major environmental departments, and as follows

1- The Council of Ministers:

The Council of Ministers is the head of the executive authority. The Iraqi constitution referred to the tasks it exercises, which are (a- planning and implementing the state's general policy, b- proposing draft laws, c- issuing regulations, instructions and decisions with a view to implementing laws) ⁽³³⁾ we note through these tasks The Council of Ministers can propose laws or issue regulations and instructions that will preserve and improve the safety of the environment.

2- The Ministry of Health and Environment:

The Ministry of Environment was established under the dissolved Coalition Authority Order No. 44 of 2003 which is repealed ⁽³⁴⁾, and after that Law of the Ministry of Environment No. 37 of 2008 was enacted ⁽³⁵⁾ until it was merged with the Federal Ministry of Health under the reform steps in 2018. With this law, the Ministry of Health and Environment became the administrative Authorities responsible for protecting and improving the environment, as the law gave the ministry many specializations and these specializations (1- Proposing a general policy for protecting the environment from pollution, 2- Coordinating with the relevant authorities in the regions and governorates that are not organized in a region in the implementation of the policy Council of Ministers related to the environment, 3- Preparing regulations and issuing instructions related to the environment, 4- Studying Arab, regional and international conventions, treaties and protocols, 5- Examining environmental issues and problems and taking measures and precautions necessary to prevent environmental degradation, 6- Following up on existing and proposed uses of natural resources, 7- Following up on the safety and improvement of the environment.) There are many powers entrusted to the Ministry for the protection and improvement of the environment, and the Ministry of Environment integrated into the Ministry of Health consists of several environmental administrative Authorities through which the Ministry of Environment carries out its duties, and these devices are (A - Radiation Protection Center: - This center is concerned with identifying sources of radiation and working with other administrative authorities to ensure protection from them ⁽³⁶⁾, b- Environmental protection departments in the governorates: - Where a department is formed in each governorate specialized in preserving the environment ⁽³⁷⁾, c- Central Environmental Laboratory: - It is a laboratory in which chemical, biological and physical tests and analyzes are conducted to identify the state of the natural environment ⁽³⁸⁾).

3- Environment Protection and Improvement Council:

It is an advisory council consisting of the Minister of Environment as Chairman, the Technical Undersecretary for the Ministry, the Vice President, and a General Director from the Ministry who is a member and a representative from all the State's ministries are members of this Council. ⁽³⁹⁾

The fifth demands: means of protecting the environment from the harmful effects of pollution

There are several methods that the administration takes to protect the environment from pollution, as these methods are divided into two parts, the first part is preventive and the second part is curative, and we will mention these methods in the Iraqi law as follows:

1- Preventive methods in protecting the environment:

The administration has a set of preventive means to protect the environment, as follows:

1- The environmental controller

the environmental controller is defined as (the employee hired under the provisions of the Environment Law No. 27 of 2009 with the aim of monitoring the implementation of environmental legislation). ⁽⁴⁰⁾ Where the employee must be among the employees of the Ministry of Environment and be appointed by the Minister, ⁽⁴¹⁾ the law also requires the environmental employee to take the legal oath before the concerned head of the department before starting his work. ⁽⁴²⁾

The law has granted the authority of judicial control, whereby it can take all methods to combat environmental crimes based on articles (41-42-43-44-45-46) stipulated in the Criminal Procedures Law No. 23 of 1971.

2- Environmental Police:

In order to activate the role of environmental oversight, where the law has established a special department for environmental police that is administratively linked to the Ministry of Interior, defining its structure, mission and connection to an internal system issued by the Minister of Interior in coordination with the Minister of Environment ⁽⁴³⁾ where the role of environmental police contributes to reducing environmental violations Through the joint work between them and the environmental controller.

3- The technical department in the Federal Ministry of Environment:

The function of this technical department is the environmental monitoring through its departments concerned with environmental control, which includes all activities that lead to damage to the environment, represented by the following sections ⁽⁴⁴⁾ (A- The department for monitoring and evaluating water quality and consists of three divisions, The Division for Monitoring and Evaluating the Quality of Drinking Water, the Division for Monitoring and Evaluating the Quality of Surface Water Resources, the Division for Monitoring and Evaluating the Quality of Groundwater Resources, B- The Air Quality and Noise Monitoring department and it consists of three divisions, the Air Quality Monitoring Division, the Noise Monitoring Division, the Climate Change Monitoring Division, c- The Department for Monitoring and Evaluating Industrial Activities and it consists of three divisions, the Division for Monitoring and evaluating major production projects, the Division for Monitoring and Evaluating Small Productive Projects, the Division for Monitoring and Evaluating Industrial Workshops, D- The Service Activities Control department, and it consists of three divisions, the Division of Medical Waste Management, the Division of Waste Management Municipal and Construction, Division of Liquid Waste Management and Organic Activity, e - Department of Marshlands and Wetlands: - It consists of three divisions, a division that monitors and assesses water and soil quality, The Division for Monitoring and Assessment of Biodiversity in the Marshlands and Wetlands, the Division for Monitoring the Environmental Reality of the Marsh Population, F - The Soil Monitoring and Assessment Section consisting of three divisions, the Cultivated Land Control Division, the Desertification Monitoring Division, the Soil Quality Monitoring Division, G- The Chemicals Monitoring and Site Assessment Section Contaminated with four divisions: Chemicals Management Division, Oil Pollution Control Division, Contaminated Site Assessment Division, Disaster, Emergency and Crisis Division, H- Department of Environmental Impact Assessment and Land Use and it consists of three divisions, Environmental Approvals Division, Environmental Audit Division, Impact Assessment Division Environmental Investment and Development Projects Division)

4- The Radiation Protection Center:

The Radiation Protection Center affiliated to the Ministry of Environment exercises one of the most important forms of preventive control of the environment, as it monitors the use of radiation sources for peaceful uses and guarantees protection from exposure to them. ⁽⁴⁵⁾

5- Environmental directorates in the governorates:

The environmental directorates in the governorates affiliated with the Ministry of Environment perform the function of monitoring activities affecting the environment, following them up, and verifying their compliance with the provisions of environmental laws, regulations and instructions in order to prevent and reduce environmental pollution. ⁽⁴⁶⁾

6- The Iraqi Authority for Controlling the Sources of Radioactivity:

The Authority monitors the use of sources of radioactivity in Iraq in order to control radioactivity practices, whether for educational or medical purposes, and other legitimate uses ⁽⁴⁷⁾

2- Means of environmental administrative control:

Administrative control is one of the most important administrative functions exercised by the administrative authorities, which aims to protect the public order with the elements of the third: public security, public health, public tranquility, by issuing organizational and individual decisions, where these decisions are represented by urban and intended (preventing natural and corporate persons from performing a specific behavior determined by laws, regulations, or instructions, due to the danger it carries on the environment and the damage that it may inflict from its actions, whether directly or indirectly) ⁽⁴⁸⁾. It includes permitting a natural or corporate person to practice a specific activity that the legislator does not allow to practice except through that permit ⁽⁴⁹⁾. Or the notification and what is meant (it is to inform the competent environmental department about the activity that the person wishes to engage in, either before practicing this activity, which is called prior notification or after a certain period of its practice and it is called post notification) ⁽⁵⁰⁾. Or the obligation and what is meant by (obligating individuals, entities and establishments to take specific positive action to prevent or protect the elements of the environment, or to oblige those who mistakenly cause the pollution to remove pollution if

possible)⁽⁵¹⁾. Or Encouragement and what is meant by (granting material and moral benefits that the law decides to grant to everyone who performs actions that prevent pollution of the environment, such as financial aid and tax exemptions, and it may be intangible, such as the granting of a certificate⁽⁵²⁾. Using force to force people to implement its environmental orders and decisions to protect the environment from pollution, such as seizing contaminated food, confiscating contaminated equipment and machinery, and confiscating spoiled food in Iraq⁽⁵³⁾. Preserving a safe and secure environment for the lives of individuals, as the law gave it's characteristic a judicial control , as we referred to it previously.

3- The remedial means to protect the environment:

one of the most important means of protecting the environment and known as the therapeutic means represented in the form of administrative sanctions (which are the penalties imposed by the competent environmental administration on every person who commits an environmental violation in a way that directly affects his financial responsibility without prejudice to his body, freedom or social status)⁽⁵⁴⁾. In Iraq, the law permitted the Environmental Management to impose fines on anyone who violates the Law on Improvement and Protection of the Environment)⁽⁵⁵⁾, Or it may take the form of administrative confiscation, which is intended to (it is the transfer of ownership of one or more money from the person convicted of breaking the law and violating its provisions to the state forcibly without compensation)⁽⁵⁶⁾. and the Iraqi legislator did not take this picture in the Environment Protection and Improvement Law No. 27 of 2009, and it may take the form of deprivation of financial benefits and is intended to (suspend or cancel the legally established benefits for some natural or corporate persons because of their harm to the environment through what they do from Activities).⁽⁵⁷⁾ And the Iraqi legislator did not take this picture either, or it may take the form of environmental taxes, which is intended (obligating the natural or corporate person to be compulsory, to pay a specific cash amount to the state treasury in the case of damage to the environment or its pollution through his activities, that is, the tax It takes here the meaning of the penalty because it is not imposed in the beginning, but rather after the damage to the environment has occurred by the action of the person who is obligated to pay it).⁽⁵⁸⁾ And Iraq did not take this form of remedial means, and the administration may resort to non-financial administrative sanctions that are intended (these are those penalties that do not directly affect the violator with his financial liability, but rather fall on some of his rights and freedoms).⁽⁵⁹⁾ The non-financial administrative penalties are divided into several forms. Including what is in the form of a warning and what is meant by it (it is a procedure that the administration takes when its regulatory agencies discover that a harmful act has occurred to one or all of the elements of the environment).⁽⁶⁰⁾ In Iraq, the Environment Protection and Improvement Law No. 27 of 2009 Article 33 gave power to the minister or whoever authorizes him to direct A warning to any party that violates the provisions of this law, or administrative penalties may take the form of closing the facility, which is intended (it is an administrative procedure issued by the competent administrative authority that includes stopping the facility harmful to the environment as a result of its breach of environmental laws, regulations, and instructions).⁽⁶¹⁾ The Iraqi legislator has taken the penalty of closure in Article 33/1 of the Environment Protection and Improvement Law, whereby the aforementioned article has given the Minister the authority to suspend or temporarily close for a period of no more than 30 days, which can be extended until the violation is removed, or the penalty may take the form of withdrawing licenses and what is intended (the penalty Imposed by the competent administrative authorities on whoever violates the conditions and controls of the license granted to him to practice a certain activity).⁽⁶²⁾ The Iraqi legislator did not take this type of penalty in the Environment Protection and Improvement Law, and the penalty may take the form of removal and what is intended (a penalty taken by the administration with its own will is required. The responsible person must repair and treat the environmental damage resulting from his action within a specific period specified for him by the administrative authorities).⁽⁶³⁾ In Iraq, the Iraqi legislator adopted Article 32 of the aforementioned Law on the Protection and Improvement of the Environment.

Conclusions

In view of the development in all industrial and agricultural fields and the great environmental damage that resulted from this development, and in order to maintain a healthy environment free of pollutants, the Iraqi legislature initiated the issuance of the Environment Protection and Improvement Law No. 27 of 2009 in order to advance the environmental reality in the country. The law came in line with environmental developments, but the mechanisms taken by the administrative authorities in implementing this law are weak, which led to this weakness to the deterioration of the environmental reality in the country, In order to develop these mechanisms, we suggest that a higher council for

environmental protection be formed, linked to the prime minister, that monitors the implementation of the mechanisms by the administrative authorities concerned with the environmental aspect.

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