

CRIMINAL INFRINGEMENT OF ENVIRONMENTAL PLANNING VIOLATIONS

التعدي الجنائي الناجم عن انتهاكات التخطيط البيئي

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Abstract:

Urban planning plays an important role in sustainable development processes, which are increasingly dependent on development and development of the environment to advanced levels by helping to create a vibrant public situation.

The study of architecture and urban planning in particular is an art and science and the latter requires knowledge and knowledge of various aspects related to the emergence of architecture and its development and development throughout history, especially the elements of space and time and their reflection on the cultural and environmental dimensions of architecture. Societies always need controls and legislation to regulate their affairs and to arrange relations between individuals. Perhaps these values are the same, which form the common denominators between individuals and groups, which are similar to the concept of society, which advances these legislations and moves towards urbanization, development and prosperity.

The legislation on urban planning almost combines the development of rules and regulations for the planning of residential areas, taking into account the protection of the environment. Therefore, it is necessary in this study to identify the laws, regulations and instructions that determine the importance of urban planning between the pros and cons of these legislations in order to come up with a comprehensive vision and specific recommendations on this legislation, noting that many of the architectural problems facing Arab society today in the field of its built environment are result The absence of legislation capable of simulating all the requirements of development to meet the aspirations.

Keywords: *Environment, urban, planning, law, crime, protection.*

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المخلص:

يلعب التخطيط العمراني للمدن دوراً رئيساً ومهماً في عمليات التنمية المستدامة التي يتم الاعتماد عليها أكثر فأكثر في تنمية وتطوير البيئة، وتعد دراسة العمارة وتخطيط المدن بشكل خاص فن وعلم وأن الأخير يتطلب معرفة وإطلاع بجوانب مختلفة ذات علاقة بنشوء العمارة وتطورها عبر التاريخ وبخاصة مقومات المكان والزمان وانعكاسها على الأبعاد الحضارية والبيئية للعمارة، وتحتاج المجتمعات دائماً إلى ضوابط وتشريعات لتنظيم أمورها وترتيب العلاقات بين الأفراد، ولعل هذه القيم هي بعينها التي تشكل القواسم المشتركة بين الأفراد والمجموعات المختلفة بما يسمو بها إلى مفهوم المجتمع الذي يرتقي بهذه التشريعات ويمضي نحو التحضر والتطور والازدهار.

وتكاد تُجمع التشريعات الخاصة بالتخطيط العمراني على وضع قواعد ونظم لتخطيط المناطق السكنية، على أن يراعى في هذه القواعد حماية البيئة، ولهذا لا بد في هذه الدراسة الوقوف على والقوانين والأنظمة والتعليمات التي تحدد أهمية التخطيط العمراني بين إيجابيات وسلبيات هذه التشريعات من أجل الخروج بتصور شامل وتوصيات محددة بشأن هذه التشريعات، إذ يلاحظ أن العديد من المشاكل المعمارية التي يواجهها المجتمع العربي اليوم في مجال بيئته المبنية هي ناتجة عن عدم وجود تشريعات قادرة على محاكاة كافة متطلبات التطور بما يلي الطموحات.

الكلمات المفتاحية: البيئة، العمران، التخطيط، القانون، الجريمة، الحماية.

INTRODUCTION:

THE IMPORTANCE OF THE SUBJECT:

The study of architecture and city planning in particular, and its science and knowledge requires knowledge and knowledge of various aspects related to the development, production and development of architecture throughout history, especially the elements of space and time, and its reflection on the civilizational and environmental dimensions of architecture.

The architecture is a civilizational product that embodies the thought and beliefs of society, and architecture has varied from civilization to civilization, depending on different societies in ideas, beliefs and natural circumstances, giving each building special characteristics that distinguish it from other buildings, as each building is suitable for a particular society and region.

Societies always need checks and legislation to regulate individual relationships, and these are the very values that shape the common values of individuals and different groups, so that they become the concept of society that promotes such legislation and moves toward urbanization, development and prosperity.

In view of the importance of laws and regulations in people's lives, and because of their thorny and complicated subject, it was necessary to talk about a

specialized part of the regulations and laws dealing with organization and construction, and to study their impact on the physical environment between the positive and the negative aspects of building a harmonious urban environment of a distinctive character, as organized legislation, local administration and environment are the basic mechanisms affecting the level of urbanization and the importance of such as the development of society.

PROBLEM OF THE STUDY:

Urban planning legislation is almost unanimous in establishing norms and planning systems for residential areas, taking into account the protection of the environment, and it is therefore necessary to identify the laws, regulations and instructions that define the importance of urban planning between the positive and negative aspects of such legislation in order to emerge with a vision and specific recommendations on such legislation, noting that many of the architectural problems that Arab society is facing today in its environment are the result of not being able to meet all the requirements and aspirations of development.⁽¹⁾

METHODOLOGY USED:

In our study, we will follow the method of analytical legal research by studying the legal texts related to urban planning and analyzing them accurately and practically.

GENERAL DIVISION OF THE STUDY:

The topic will be dealt with through three Sections, dealing first with the concepts of physical planning and environmental protection, and secondly with criminal sanctions for violating physical planning, and in the third, with precautionary measures designed to violate the rules established for the protection of the environment in physical legislation.

SECTION I - THE CONCEPTS OF PHYSICAL

PLANNING AND ENVIRONMENTAL PROTECTION:

Urban urban planning plays a major and important role in sustainable development processes, which are increasingly dependent on the development of the environment to advanced levels by helping to create a vibrant public situation, helping planners create sustainable communities by bringing clusters together, their constructive and important role in helping to promote social and health equity, alternative local economies and their contribution to building communities where reliance on private transport (vehicles) is less likely to protect environmental balance and develop environmental vocabulary Distortion⁽²⁾.

In addition to the fact that the city has a large number of cities, including the cities, towns, cities, towns, cities and towns, and the cities, as well as the

complex and expanding components of cities and the development of new machines and industries, there have been many other problems that are still being tried to overcome, among which are environmental pollution from industrial waste, industrial plants and solid waste Optical, noise³, spread of solid waste and water pollution.

We will deal with this search through two requirements, the first requirement that we offer the concept of urban planning. The second requirement concerns the concept and protection of the environment.

A) THE CONCEPT OF URBAN PLANNING:

Planning as a concept and term is a logical and rational thinking approach practiced by all at all levels, from individual and family to local, national and global levels, and involves the vision and vision of a future situation that needs to be reached, and thus the development of the means and procedures to achieve it, and the multiplicity of planning attributes in terms of levels and sectors, where strategic, national, regional and local, long-range, near-term, economic, technological, and military, Etc.

Physical planning, when it is built, becomes an autonomous concept, hence the real problem of this concept, which is problematic in generality, comprehensiveness and a high degree of non-agreement on a single concept⁽⁴⁾ In order to understand the concept of urban planning' we will study in this requirement the definition of a language, reform, jurisprudence and law.

Urban Planning Language: The origin of the planning language is the drawing of marks on the object, and the plans of the land are said to make them lines and boundaries. The layout of the place is its partition and layout of the building⁽⁵⁾ Planning in this sense is different from planning in the field of policy science and management. It is a future program to achieve certain objectives, within a limited time, by limiting the possibilities available and devoting them to the implementation of these objectives. It is just a mental effort on future achievements, including the setting of goals to be realized, the means to achieve them, and the future duration of achievement.

The word "architecture" means "architecture", and means "housing", so the age of the home is said to be any building or housing.

The architecture of the mosque includes its residence, restoration, cleaning, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, restoration, ⁶ Man is required by his Creator to build the land from which he was created and excluded. According⁷ to the brief dictionary, the two cities are the oldest of the land and the state is improved by agriculture, industry, trade, many people, business success and urbanization.

Urban planning is a term: Planning is generally a term that is used today, both at the state level and at the individual level, because all have their own planning, upon which their future is built, and which is of benefit to them, and planning has become a characteristic of the age. Planning is defined⁸ as an organized scientific means of a series of interrelated and successive processes to achieve specific goals and objectives within a planned strategy and within a specified time period.

It is also the first time that the government has implemented a comprehensive plan to implement the plan, which will be implemented in the next few years, as well as the implementation of the plan. Etc. Some have also defined planning as planning designed to counter the future with pre-organized plans to achieve specific objectives in a specific area⁹

Some believe that urban planning is intended to establish a structure, arrangement or coordination for allocating places in order to achieve the best use of them. Urban planning paints a picture¹⁰ of what urban planning is intended to be or is attempting to address future variables, but does not usually set a specific time limit for achieving specific objectives that combine the possibilities available, as is planning in its political and administrative sense.

While urban planning is the regulation and establishment of rules for allocating available from state land for the best use, two things are considered: First: What is already being allocated land, whether residential¹¹ or industrial, the extent of the relationship between such allocation and the risks and environmental problems involved, and the other is the places, unpopulated lands and industrial areas, and the extent to which they can be used to eliminate environmental risks and problems.

Urban planning is also defined¹² as an attempt to create an appropriate environment that allows societies to find the means necessary to achieve an adequate living framework for their populations, in which they provide for the comfort and well-being of cities.

Urban planning and law: The law on urban planning is a special law that contains a set of legal rules relating¹³ to the regulation of the use of space in the territories of the countries in which the public interest is realized. This law, although different, is a newly created law that began with the regulation of major cities but has extended its scope to smaller cities and even villages in a manner consistent with their nature. Cities have been found thousands of years ago, but a great growth in population gatherings accompanied by urban problems occurred after the industrial revolution, and it doubled after the first and second world wars to reconstruct destroyed countries and face the population explosion. The vast majority of the population of civilized States have become living in civilian units, and this has necessitated greater attention and revision of urban planning and its incorporation in legislative texts that address the problems of accommodation and

the public interest, which has been the basis of the Urban Act.

The structure of the population groups began with full specialized urban legislation only from the late 19th century, and the Urban Planning Law was promulgated in Sweden in 1874, in the Netherlands in 1901 and in Britain in 1909m, France in 1919m, although it is the country of famous technologies, and in Egypt, the Urban Planning Law No. 3 of 1982 was passed only in the last quarter of the 20th century.¹⁴

Planning has become increasingly a common phenomenon involving all States, making some jurists argue that the planning terminology has become sacrosanct because of the planning process, its relevance to States, and the scientific studies it has acquired in order to solve the problems of societies.¹⁵

It is noteworthy that the urban planning laws to replace the Arab laws comparison has been free from the presence of a definition of the term (Urban Planning) despite the presence of a signal of its objectives, so we need to turn the legislature to formulate a clear and straightforward to avoid ambiguity in the definition of the law.

B) THE CONCEPT AND PROTECTION OF THE ENVIRONMENT:

When Allah created the planet, He created everything man needed for his survival, growth and development, and because of the human exploitation of the existing elements he could perform his duties well, since man is directly or indirectly related to these elements that God created, since they affect him and his ability to sustain and live properly, all of which are called the environment.

Some use the word environment to denote the circumstances of man at all times and places, and others use it in the sense of (a level) that used to say the social environment, the rural environment, the urban environment and the cultural environment. Such multiple uses are without prejudice in the sense if they are used in the proper place, although they sometimes give rise to some ambiguity, especially if they carry similar meanings in the absence of a comprehensive and specific definition or, as it is said, a prohibitive, non-confusing and call-free definition, which specifies the uses of the word and explains their importance⁽¹⁶⁾

The definition of the environment requires that we be confronted with the linguistic origin of the word first, then with the conventional definition of the environment of environmentalists second and finally with the definition of the environment in law.

1) THE LINGUISTIC DEFINITION OF THE ENVIRONMENT:

The word "environment" is derived from the "tricolor" and is said to be beta-HCH, meaning the environment here is derived from it as the earth and its embedded nonliving components represented in the earth's surface (mountains, hills, valleys, rocks, minerals, soil, water), and the living components represented in plants, animals, and the surrounding earth's shell that contains many essential

elements of life on earth (the earth) and its natural environment, as it is its mildly tilted and its body.¹⁷

2) DEFINITION OF THE ENVIRONMENT:

The environment, in its linguistic meaning, as we have said, means the situation in which man takes his home and living, and the connection of the environment to the meaning of the home or the home is obvious, and the linguistic meaning of the environment mentioned above differs from the meaning of the term except in the details of the components and components of the environment.¹⁸

The vagueness of the exact definition of the term and scope of the environment has had a different effect in visions and conflicting trends in defining their frameworks for its components¹⁹, as some see that the environment means the medium in which human beings live and other living beings practice their different activities²⁰, others see it as the framework in which human beings live, and from which they acquire the ingredients of their food, medicines, shelter and relationships with their human beings.²¹

It has also been argued that the environment represents and affects all the behavior of the individual and the community, as well²² as the range of financial and social resources available at some time and somewhere to satisfy the needs and aspirations of the human being. It is said to be the natural environment in which human and other beings live to survive and sustain life or are the combination²³ of natural, biological, social and cultural factors and elements interacting in a balance that creates an environment for human life.

Others argue that the environment is two complementary concepts: (The biological environment), namely, not only about human life itself, but also about the human relationship with animal and plant living organisms, which live on one level, and the natural environment, including water resources, wastes and disposal, insects, soil, housing and air, and its transport or pollution, weather, and other natural characteristics of the environment.)²⁴

3) DEFINITION OF THE ENVIRONMENT AS A LAW:

Some national legislation defines the environment in the provisions of its laws. In Egyptian law, article 1, paragraph 1, of Act No. 4 of 1994 defines the environment as (the ocean that includes living and²⁵ living things, the surrounding substances, water, soil, human installations), and Jordanian law defines the environment as: The ocean that includes living and non-living things²⁶, its contents, its materials, its surroundings, water, soil, human interactions and human installations.

The Iraqi legislator defined the environment as (the surroundings of all its components, where living organisms and the effects of human economic, social

and cultural activities)²⁷.

The Syrian legislature also defined it as the ocean in which living life is human, animal and plant, including water, air, land, and so on (²⁸), and the Lebanese legislature defined the environment as the natural, chemical, biological and social environment, in which all living things live and regulates interaction within the ocean and between creatures and between the ocean and creatures⁽²⁹⁾

The restrictive and absolute legal concept of the environment following recent scientific and industrial development in the world, particularly in the late twentieth century, has made the environment a new value in the values of the society it seeks to preserve and protect from all harmful acts. Most States have therefore emphasized this new value in their laws and even constitutions, as well as in global and international declarations, so it is important to review the legal concept of the environment, but the legal concept has been challenged by one of an enlarged and the other.

Referring³⁰ to the term environment as a legal concept, in some legal systems, the legislature has taken a narrow course in defining the concepts of the environment by restricting them to the basic elements of the natural environment that are not accessible to the human being, such as water, air and soil.

This legislation, which introduces this narrow and restrictive concept, includes the French law on classified environmental protection establishments as well³¹ as Brazil, Polish, Libyan and Syrian law, and finds that the French law on establishments classified for environmental protection, in accordance with the provisions of the French law of 19/6/1976 on establishments classified for environmental protection, the environment is limited to nature only without any other elements.

Other legislation has been widely used in defining the concept of the environment, which encompasses the natural environment with its elements that existed before the human being existed, as well as the man-made industrial environment and the elements created and created by man through his human activities, such as the French Nature Protection Act³², which stipulates that the judiciary, resources, natural mixing, landscape, air purity, animal species, diversity and biological balance are part of the common heritage of the French nation), according to the provisions of the French environmental law of 1976. Nature (animal, plant, ecological balance) And natural resources (water, air, land, mines). And places and natural (tourist) sites.

In our view, the environment in general is the physical world, the spatial sphere, or the ocean in which living organisms live, from which they derive their living ingredients and contain natural elements, and the human elements that affect and are affected by human activity.

SECTION II - CRIMINAL PENALTIES

FOR BREACHES OF URBAN PLANNING LEGISLATION:

In modern criminal policy, punishment plays a major role in the rehabilitation, rehabilitation and social integration of the offender, and criminal jurisprudence has defined the penalty as a penalty assessed by law and signed by the judge in the form commensurate³³ with the offense.

Most of the criminal penalties for environmental pollution are either custodial penalties, life imprisonment or aggravated imprisonment, or the form of financial penalties, which are fines and forfeiture, and since the expensive criminal legislation provides for custodial penalties and other non-custodial penalties as criminal penalties for offenses that pollute the environment, these penalties are required by dividing the search into two sections:

The first requirement is to consider custodial sentences, and the second requirement will be for non-custodial sanctions

A) DEPRIVATION OF LIBERTY:

Custodial penalties are those in which the convicted person loses his personal freedom by depositing him or her in a penal institution and subject him to a mandatory daily program.

The application of custodial sanctions raises debate and debate as to whether custodial sentences vary according to the gravity of the offense or are combined in a single sentence for all offenses, with different periods of time from one crime to another. However, the majority³⁴ of modern criminal legislation recognizes various and multiple custodial penalties, which vary in strength from the regime imposed on the sentenced person to the gravity of the offense committed.

Article (23)³⁵ of the Penal Code (111) of 1969 prescribes the offenses for three kinds of seriousness: Offenses, misdemeanors and Felonies.³⁶

The legislation on physical planning for environmental protection was divided into punishment between the availability and non-availability of aggravated circumstances. It contained numerous penalties for those directly convicted, ranging from imprisonment to imprisonment with monetary fines to cases in which the legislator imposed sanctions on violators of the provisions on physical planning and environmental protection and cases in which the legislator imposed a punishment in conjunction with an aggravating circumstance.

1) LIFE IMPRISONMENT AND IMPRISONMENT:

Life imprisonment and imprisonment are among the most severe penalties imposed after the death penalty for offenses under the death penalty, which means that the convicted person shall be deprived of liberty and committed to acts

determined by the government for his life if the sentence is life imprisonment or during the period prescribed by the court if the sentence is severe, and the legislator has defined it in article 87 as (imprisonment for 20 years) and charges the person with the lawful establishment of imprisonment³⁷ More than five years (five years and one month) and 15 years (the prison population is charged with carrying out legally prescribed work within the penal establishment.

Environmental legislation provided for life imprisonment and aggravated imprisonment as a penalty for aggravated pollution of the environment when combined with aggravating circumstances.

Drawing on the laws of environmental protection in Iraq, we note that in criminal sanctions, they have tightened environmental pollution for a number of reasons, including the recurrence of environmental violations, non-compliance with judicial obligations and the type of environmental crime committed.

For the purpose of tightening the punishment and reduction of environmental pollution, agreed environmental protection laws in Arab countries, the introduction of such as handle and repeated environmental offense promised him a cause of severe punishment on guilty returnees criminality, arranged the imprisonment penalty, imprisonment and fines upward or both tow penalties together for a more effective system, as provided for in paragraph (I/M) in Article (21) of the law on the protection of the environment of Iraq, saying (in the case of a repeated offense, the penalty is imprisonment for a term of not less than (3) three months and not more than (6) six months or a fine of not less than one hundred thousand (100,000) Dinars and not more than five hundred thousand (500,000) Dinars.

Imprisonment is an original sentence in the Penal Code and a sentence of life imprisonment or aggravated imprisonment in the hierarchy, but it assumes a less strict system of execution, and thus imprisonment in terms of the fact that it contains Ealam is lighter than life imprisonment or aggravated with all legal consequences.

It is noted that environmental and modern legislation have begun to impose prison sentences as a penalty for combating the offenses of polluting the environment provided for, in which one of two basic forms of imprisonment is prescribed as a punishment for the offense of polluting the environment in its simple form.

Article 35 of the Iraqi Environmental Protection and Improvement Act stipulates that anyone who contravenes the provisions of article 20 (2), (III) and (IV) of this Act shall be imprisoned and shall return dangerous or radioactive materials or wastes to their origin or safely dispose of them with compensation³⁸

2) CUSTODY:

Custody is the looting of the freedom of the convicted person sometimes committed to work often exempted from this obligation during the period specified by the judgment).³⁹The Iraqi legislature provides for imprisonment for a term of not less than three months or a fine of not less than one million(1000,000)dinars and not more than 20 million dinars (20,000000 dinars).

It is clear from the text that the Iraqi legislature has made the penalty of imprisonment comprehensive for all environmental offenses resulting from the violation of the provisions of this law without taking into account the gravity of the crime and the damage caused by it.

Article (13) of the Act stipulates that anyone who ignites fire in forests and protected areas shall be liable to imprisonment for a term not exceeding three years (a penalty of imprisonment for a term not exceeding three years) and to imprisonment for a term not exceeding three years (a penalty of imprisonment for a term not exceeding three years) A person who contravenes the provisions of section I of section (11)⁴⁰ of this Act shall be liable to a fine (3) Three million dinars.

Article (16) provides for imprisonment for a period of more than 3 months and a fine of not more than Three million dinars. Or a fine equivalent to (3) three times the value⁴¹ of the material taken in contravention of article (11), section IV (5).

In the same context, paragraph 7 (c) of the Municipal Administration Act No. 165 of 1964, as amended, stipulates that: "If a person who is subject to a fine under the provisions of this article is not liable to pay it, he shall be referred to the competent court to replace the fine by imprisonment under the law." Similarly, article 96 of the same law in paragraph (1), which stipulates (1) that the occupant of the property shall be liable to a term of imprisonment of not less than three months and not more than six months.

The Act regulating the areas of collecting debris No. 67 of 1986 also provides for the same emphasis as article 4 (1) (anyone who leaves a body on the public road, or fails to lift it during the period specified in this Act or causes it to be thrown out of the temporary gathering places shall be liable to a fine of one hundred thousand dinars (100,000 dinars), and if not raised, one month shall be imprisoned).

B) NON-CUSTODIAL PENALTIES:

If the custodial sentence is the most prominent of sanctions in general law, the sanctions of non-custodial sentences, which are financial sanctions are the most prominent penalties for environmental crimes, therefore, most of the environmental criminal legislation headed toward a financial penalty for crimes

of the pollution of the environment where the consequent reduction in the rhythm of financial disclosure the person sentenced by the public interest, and the non-custodial sanctions in a fine.

For the stance of the Iraqi legislature on the approach adopted by the estimation of the value of the fine as a criminal sanction for violating the provisions of the law on the protection and improvement of the environment, to the text on the lower and upper limit, leaving the judge appreciation between both of the limits, with the method taken by the former environmental legislation talking about where the quote this punishment by imprisonment penalty when the text of that (...punishable contrary to the provisions of this law and the regulations, instructions and the data issued by it to imprisonment... A fine of not less than (1,000,000) million dinars and not more than (20000000) Twenty million dinars or both

Article 8 of the Iraqi Noise Control Act No. 41 of 2015 stipulates that anyone who contravenes the provisions of this Act and the regulations and directives issued thereunder shall be liable to a fine of not less than 50,000 dinars and not more than one million dinars.

The Act regulating the areas of collecting debris No. 67 of 1986 specifies the amount of the fine without mentioning a maximum and minimum amount under section 4, first of which it stipulates that anyone who leaves a body on the public road or on its account shall not lift it within the period specified in this Act or cause it to be thrown out of the temporary gathering places shall be liable to a fine of 100,000 dinars, and when no payment shall be made for one month. Second: Any person who commits to remove the debris resulting from construction, demolition or excavation by his or her own means and intentionally throw it down the public road or other designated assembly areas shall be liable to a penalty of imprisonment of not less than six months with a fine of not less than (250000 dinars) and It is not more than 600,000 dinars, without prejudice to any more severe penalty prescribed by law.

The fines are also laid down in the Forestry and Quarantine Act No. 3 of 2009 of Article 15, which establishes a higher limit to the penalty of imprisonment... Article 11 of this Law), as well as Article 16 thereof (shall be punishable by imprisonment or a fine equivalent to (3) times the value⁴² of the material taken contrary to the provision of Article (11) of this Law), and Article (17) shall be liable to a fine of not less than (1) million dinars for each person who contravenes the provisions of Article (9) of this Law) .⁴³

Article 19 stipulates a higher and lower limit of the fine by providing that anyone who contravenes the provisions of article 11, section III, shall be liable to a fine of not less than 500,000 dinars and not more than 1 million dinars shall be liable to any person who contravenes the provisions of article 11, paragraph 3.).⁴⁴

Finally, the specific fine stipulated by the law is that article 18 stipulates that anyone who transported the product of a forest without leave shall be liable to a fine of 1 million dinars. In the case of repeated offenses, the fine shall be doubled, as well as the provision of Article 20 by saying (a fine of 100,000 dinars shall be imposed on each dunum of the forest, and the portion of the dunum shall be deemed to have been removed by him or at his expense by anyone who has encroached on the woodlands and quarries and has not obtained a license from the company in the following cases:

1. Forestry and agriculture for non-forest purposes.
2. Dumping debris, solid and radioactive waste and any environmental pollutants.
3. Extend the lines of water, electricity, telephone, sewage, channels and roads.

In the same vein, Article 21 of the same Law prescribes a fine of 50 thousand dinars (50,000) for anyone who has removed or destroyed a sign of the forest boundary with a fine for every meter of its forest), and Article 22 stipulates that (50,000) 50 thousand dinars shall be a fine for each of the pieces of tree in the State forests, the public sector, the artificial quarrel, and 25,000 dinars of private forests... Article 23 also stipulates a fine of 2,500 dinars for damage to a tree or tree in the forest who has pastured in violation of the provisions of this law and the instructions issued thereunder.

It should be noted that the Iraqi legislature has not taken relative fine since it is often difficult to determine the appropriate amount of environmental hazards and damage due to the violation of the rules of physical planning for environmental protection, and therefore we consider it appropriate that the legislature should provide for the penalty of relative fine, which is estimated to be the light of environmental damage and its utility, since it is the best way to deal with environmental damage.

SECTION III -PRECAUTIONARY

MEASURES FOR URBAN MALFEASANCE:

Precautionary measures are a set of procedures provided for by law, together with the original penalties prescribed by a judge for a criminal offense or proved to be a threat to public peace and fear that he may be subjected to other punishable acts. These measures are intended to eliminate the phenomenon of recidivism and to protect society from the threat it threatens, deter and free the offender, and resort to the imposition of precautionary measures along with the original punishment as a consistent means of penal policy against crime in general to address the failure of punishment alone to fulfill its social function.

As for precautionary measures under Iraqi law, they are either custodial or restrictive measures such as attachment of a remedy or negative to rights such as termination of guardianship, trusteeship, custodianship or materiality such as a

good conduct undertaking. The Iraqi Penal Code stipulates that precautionary measures shall be subject to all provisions governing punishment, and Article 1 stipulates that (no penalties or precautionary measures may be imposed by law) Community safety. The criminal's case is considered to be dangerous for the safety of society if it is determined by his condition, past and behavior, the circumstances and motives of the crime that there is a serious possibility that he might commit another crime . 2- A precautionary measure may be signed only in the circumstances and under the conditions stipulated in the law.

In order to highlight precautionary measures within the framework of the topic, we will divide this search into two branches: We will examine the first requirement to close the shop and stop the moral person, but in the second requirement we will examine the criminal confiscation and the undertaking of good conduct. In the following detail:

A) CLOSING THE SHOP AND STOPPING THE LEGAL PERSON:

The closing of the shop and suspension of the moral person are the precautionary measures provided for in Iraq's Penal Code, so we will divide this section into two sections, which describe these measures separately in each of the closing of the shop stopping the Legal person

1- CLOSING THE SHOP:

This measure is intended to prevent the shop or establishment contrary to the provisions of the Urban Planning Legislation which protects the environment from being temporarily or permanently banned when the facility and the store cause unavoidable dangers and harm to the public order, damage to agriculture, protection of the environment, preservation of tourist sites and effects, or damage to the principle of good neighborliness.

The closure differs from confiscation in that the closed shop does not become the property of the State but remains the property of the owner even⁴⁵if the closure is final or the closure entails prohibition of the exercise of the labor, trade or industry itself in the same shop, whether by the owner of the shop, a family member or any other person and the sentenced person has been paid or waived after the crime has occurred.⁴⁶

Although the amended Iraqi Penal Code (Act No. 111 of 1969) provides for the punishment of closing the shop as a precautionary measure⁴⁷ its enforcement is limited to administrative authorities for not including penal provisions on offenses and environmental offenses against the original penalty, and separate laws containing articles on urban planning do not provide any criminal penalties for the closure of the shop.

2- SUSPENSION OF THE LEGAL PERSON:

A Legal person character is defined as (a group of natural persons or funds that has a single purpose and that group has the legal personality required for this purpose separate from the personality of the bloggers and their users).

It is also defined as (each group of persons with a common purpose or group of funds allocated for a specific period of time to achieve a specific purpose so that such a group of persons or funds is a legal entity independent⁴⁸ of the persons or funds of which it is a legal entity independent of the individual and self-interest of the members of the group .

While in the past a moral person plays a specific role in social life, the economic, social, technological and environmental developments of modern times have spread and expanded their scope of activity, have played a significant role in various fields and have great potential, means and methods of using them to engage in activities, as they can bring great benefits to society and individuals alike, some of them may be error and may commit serious social and environmental damage that far more than the natural person can do when he/ she natural person who can be criminally prosecuted for any offense under penal law and other penal provisions when the elements of the offense and the conditions for follow-up are available may not be prosecuted and held criminally liable unless a provision expressly so exists, because the person's moral responsibility is special and distinct, in addition to the principle of legality of the offenses and penalties, as neither punishment nor security measures except by text, but the legislation which recognized that this type of liability is found to be limited to be limited to be limited to be limited to its scope).⁴⁹

The suspension of a legal person is intended to stop his or⁵⁰ her activity or to stop the administration from operating the offending enterprise because of its violation of laws and regulations, and this penalty is extended to an activity that is contrary to the administrative closure.

In the field of environmental protection, most environmental legislation provided the competent administration with the power to sign a suspension or temporary closure of the offending enterprise, even to remove the causes of environmental damage or to repair its effects, thereby preventing any future activity from recurring, thereby reducing the environment to protect the environment and human health ^{and safety (51)} and thus to achieve the required deterrence of the activity leading to environmental damage and public health, especially as the solution of these activities seeks to achieve a material gain that makes the violation not only cause the violation.⁵²

It should be noted that the Administration does not resort to the sanction of closure unless it finds the warning and caution in the circumstances provided for

by law, the Administration will temporarily close down to the period specified by law to take the necessary measures to reduce pollution from the installation.⁵³

The Iraqi legislature introduced the Environmental Protection Act (EPA) by stating that (first: The Minister or those who authorize him to warn any plant, plant or any environmental source by removing the influence factor within (10) days from the date of notice of the warning and in case of non-compliance, the Minister of Labor or Temporary Closure shall have a period of no more⁵⁴ than (30) days, which may be extended until the violation is removed.). Under the terms of this provision, the competent environmental protection authorities have a broad power to impose the appropriate penalty if the legislature grants the competent minister the option to sign any of the suspended or administrative closures, but the suspension or administrative closure is not applied until the source of the pollution has been warned to remove the violation, and if the establishment still causes the violation, the minister may suspend or close the work temporarily according to the above period and the minister may extend the sanction.

In this regard, the need to protect the increasingly polluted environment every day dictates that the environmental legislator must give the provincial environmental protection councils the right to use the "shut down" and "shut down" penalties to ensure the speedy protection of the necessary protection through appropriate penalties and the multiplicity of cases covered by these sanctions.

B) PENALTY OF CONFISCATION:

The Iraqi legislature decided to the penalty of confiscation in several special laws for the protection of the Environment and Physical Planning of which we mention the article (9) of paragraph II of Iraqi Forest Law)... and may be the confiscation of all crops and trees planted by contrary to the provisions of this law and the regulations issued thereunder), as well as article (18) which provided for the (... all of the transfer of the product of the forest without vacation with confiscation of the transferred forest production when the offense is repeated the double the fines) as well as the article (19) of the Act, which stipulates saying (... Each of the violate the provisions of item III of article (11) of this law with the confiscation of article STDS)⁵⁵.

And also article 22 of it (... Both the cutting of a tree from the state and the public sector or the... From private forests with confiscation of tools).

It should be noted that, as a financial sanction, confiscation is of great importance in the fight against pollution of the environment and is often provided as a preventive and air measure for dangerous things that the legislator determines to possess and deal with is a crime, because of the seriousness of the environmental environment in its various components.

CONCLUSION:

1. Environmental protection laws are the most important means of protecting nature from pollution, which are developed in parallel with the severity and seriousness of pollution, and the effectiveness of incitement in every region of the world, leading governments and civil society organizations to agree on interest or assessment of pollution situations and types and propose solutions and remedies for each country to regulate its laws as much as the risk of pollutants and measure degradation of its environment.
2. In Iraq, we have noticed a clear lack of urban legislation, as there is no unified urban planning law that can be referred to when applying the urban planning rules in Iraq, as local authorities suffer from many problems due to the lack of materials (laws and legislation) of local administration, which are represented in the continuous modifications and changes in municipal systems and the incompatibility of local systems with political and economic developments and administrative control, as well as increasing burdens and competencies of local administration.
3. Iraqi legislation is not consistent with changes and has no flexibility with reality and global changes are unpersuasive, unpersuasive and inappropriate and needs to be changed and reviewed and fines seriously symbolic, not commensurate with the magnitude of environmental damage caused by such offenses.
4. Enacting legislation, laws and adopting the necessary procedures to accelerate the launching of all planning processes at the federal and provincial levels.
5. Defining the priorities that should be addressed to address the problems facing the Iraqi cities, which all suffer from the random expansion of housing, the weakness and the decline of all services (public health, education, civil defense, environment, police, anti-terrorism and crime), the spread of unemployment, and encouraging and supporting civil society organizations that deal with social, cultural, environmental and economic activities, which have an important and useful role in the planning work, because the most important problems facing the Iraqi cities today are housing, and public services.
6. The necessity of enacting laws of protection and preserving the architectural heritage of Iraqi cities and encouraging the establishment of organizations concerned with protecting heritage and environment.
7. We believe that the criminal responsibility of the abuser in the area of building permits should be fulfilled in the cases of wilful intent and gross negligence, which amounts to wilful intent without simple negligence.
8. We believe that the general jurisdiction of the judiciary should be fully withdrawn by the administrative bodies that have been granted the power to impose a fine on the exceeding in the area of building permits, for the reasons indicated in their place, which are used in the form of building transgressions, particularly in the area of State land.

9. We would like to reconsider the amount of fine imposed on Albany, who is against building permits, and to adjust it to suit changes in the market, and it is clear that the sanctions do not serve the necessary deterrence to combat and eliminate crime.
10. It is necessary to review the existing laws in Iraq to suit the prevailing economic, social and political circumstances, unify the laws and decisions that regulate the phenomenon of construction transgressions, and issue a new law on urban planning, which we prefer to call (building law), and include all cases of transgressions, with the punishment of each case separately.
11. We see the need for Iraqi law to come with a more clear text of the responsibility of the supervisors for construction work, as a partner for transgression and as a punishment for the same punishment, the employer, the contractor who performed the works, the engineer, the competent engineer and the surveyor, in case they did not report the violation within 48 hours of their knowledge of it, and the persons who facilitated or contributed to the construction violating the law.
12. In our view, the penalty for offenses of construction transgressions should be limited to the penalty of a fine, without a custodial penalty, in line with recent trends in the reduction of custodial sentences, and economic offenses carry a higher penalty than a custodial penalty.
13. The competent authorities should make every possible effort to preserve the governmental and other lands and to put in place effective mechanisms for their preservation and non-aggression, through the establishment of the Land Control Commission, which is experienced and competent to control them, to monitor their situation and not to leave any person with an opportunity to put his hand on them.
14. To put an end to the phenomenon of building transgressions requires early dealing with them, the best is to prevent crime before it occurs, and the offender is not allowed to benefit from its violation, especially since most of the transgressions are currently taking place in the way of imposing a de facto policy, after they were given the opportunity and allowed to establish these buildings in violation when they were not dealt with early, especially as the construction is not completed.

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⁽³⁷⁾ Article 87 has been repealed and replaced by the existing provision under the First Amendment Act No. 207 of 1970. The sentence of life imprisonment has been increased to life imprisonment and will not end unless the convicted person dies according to the order of the administrative manager of the temporary coalition authority No. 31, Section 2, dated 31 September 2003.

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