

## Article

# Administrative Protection of Water Resources in Iraqi Legislation

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**Abstract:** Water is intrinsically linked to the existence of life; without it, there would be no life on this earth. Due to its importance, water is subject to legal protection, and safeguarding it is a national duty for everyone. This protection is embodied in the measures provided by administrative bodies for the aquatic environment, whether from pollution damage affecting this environment, illegal exploitation, or excessive use. Therefore, this study will explore the definition of the aquatic environment and examine the laws, legal frameworks, and administrative structures that govern water management and protection. We will also investigate the legal protection of water in the Iraqi Constitution of 2005 and the relevant Iraqi laws and administrative bodies involved in this protection. One of the key findings of this study is that the shortage of water resources in Iraq is due to both natural and other non-natural causes. One of these causes is the lack of construction of large, advanced dams and reservoirs to store water during the rainy and flood seasons and use it during drought periods. To protect and conserve water, we propose that the relevant administrative control bodies establish regulations to rationalize water consumption in all fields to reduce its usage and allocate water quotas for agricultural lands according to a fair methodology prepared by the concerned authorities.

**Keywords:** Administrative Protection, Administrative Law, Iraqi Legislation, Aquatic Environment, Legal Protection

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## 1. Introduction

The existence of life on Earth is linked to the presence of water. Without its presence, there would not be life, and this confirms what was stated in the Almighty's saying (and then We separated them and made from water every living thing? ) (Surat Al-Anbiya, verse 30). Therefore, water is the basis of life on this Earth, as water occupies about 70% of the area. The percentage of water suitable for drinking is very small, not sufficient to meet human needs. This is due to many reasons, including what is related to the control of the upstream countries by storing river water in giant tanks within their lands and deducting the share of the countries bordering it. This is contrary to what was stated in international charters and agreements, including what is related to the unjust use of water and lack of rationalization. In its consumption, therefore, countries must, at the internal and external levels, establish internal legislation and international agreements to protect and preserve water.

It is worth noting that the interest in the aquatic environment in Iraq is not of recent origin, but rather extends through the stages of ancient history until it reaches present-day history. Anyone who follows the Mesopotamian can find clear images of the aquatic environment in many of its archaeological monuments. We see that the ancient Iraqis decorated and painted images of water, fish, and birds. On the houses and temples, and this is evidence of the interest of man in ancient civilizations in water wealth, considering it one of the necessities of life on the one hand, and the many blessings it contains on the other hand, in addition to the interest of man in ancient civilizations in Mesopotamia in issuing legal legislation for the protection of water wealth, and this is what we see clearly in the correspondence of King Hammurabi. It is one of the famous historical legal pieces of legislation in which this king assures his assistants of great interest in river water and its aspects and punishes those who violate these laws.

Due to the importance of studying legal and administrative legislation to regulate water and environmental management in Iraq, we will discuss in this study its importance and the problem that this study is trying to identify and find appropriate legal solutions for. We will also explain the approach followed by this study and the structure followed in it successively according to the following.

The importance of this study lies in the definition of the laws, legal legislation and administrative structures that dealt with regulating water and environmental management in Iraq and the parties concerned with implementing these legislations. They also have a great impact in directing the attention of the Iraqi legislator to note the legislation in force and their ability to regulate water and environmental management in the country and whether they are sufficient to develop The water environment either needs amendment or the addition of new legislation capable of regulating and protecting water resources to the fullest extent.

The problem of the study revolves around the severe and increasing shortage of water resources in Iraq in the Tigris and Euphrates rivers and other bodies of water, especially the marshes, which have become barren land after they were flourishing with water and life.

This problem is summarized in a number of questions, as follows:

1. Is the lack of water resources in Iraq caused by excessive water consumption?
2. Is the acute shortage of water in rivers and bodies of water in Iraq caused by neighboring countries, especially the countries through which the Tigris and Euphrates rivers pass, and what these countries are doing in constructing dams and building giant tanks to store the water of these rivers, which is causing the depletion of the water of these rivers?
3. Was the reason for the problem of water scarcity in Iraq, which causes what is called (Iraqi thirst), the result of the failure of administrative procedures of the authorities concerned with managing water resources, such as organizing dams and creating reservoirs and lakes to store water during flood and rainy seasons, and to benefit from its water and store it in artificial lakes with urban potential? Sophisticated?
4. Did diplomatic relations between Iraq and neighboring countries play a role in these countries' acquisition of Iraq's water share of shared river water?

## 2. Materials and Methods

This study will rely on the analytical legal approach to study the legal texts and legislation concerned with regulating and protecting water and environmental resources in Iraq in order to determine its strengths and weaknesses as to whether it is capable of organizing water and environmental management in the country. To determine the cause of the increasing shortage of water resources in Iraq (Iraqi thirst) and to study the legal legislation and administrative structures to regulate water management in the country, we will divide this study into two sections. In the first section, we will address the definition of the aquatic environment in Iraq and its protection. We will divide this section into two requirements. In the first section, we will address the definition. The aquatic environment will be divided into two sections. The first will address the linguistic definition, and the second will discuss the terminological definition. The second requirement will address the protection of the aquatic environment and will be divided into two sections. In the first section, we will discuss the protection of the aquatic environment from pollution. The second section will discuss the protection of the aquatic environment from illegal exploitation.

As for the second section, it will address the legal legislation and administrative structures to regulate and protect water. This requirement will be divided into two branches. The first section will address the legal protection of water in the 2005 Iraqi Constitution in force. The second section will discuss the legal protection of water in Iraqi laws. The second section will discuss the administrative bodies concerned with regulating and protecting water and its structure. Administrative: This requirement will be divided into two branches. The first will address the administrative bodies concerned with water protection. The second branch will address the administrative structure of the administrative bodies concerned with water protection.

## 3. Results and Discussion

### The concept of the aquatic environment and its protection

Despite the many laws and texts that deal with the protection of the aquatic environment, they still fall short of giving a specific definition of the environment or the elements that make up it. This leads to a difference of opinion about the elements of the environment that are the subject of legal protection. Whether only the natural elements are included or are the elements formed by human action added, and if so Likewise, this dual content of the environment greatly expands its legal concept.

In this study, we will explain the concept of the aquatic environment in its linguistic and terminological meaning in the first requirement, and we will address the protection of the aquatic environment in the second requirement, as follows:

The first requirement: defining and protecting the aquatic environment:

The first section: linguistic definition of the aquatic environment:

The environment means in the language that it is the environment in which a person lives or the framework in which a person carries out the activity of life. The environment is represented by the air, whose purity makes a person healthy and does not cause corruption, and the water that he drinks and washes with.

It was stated in the Almighty's saying ((32) It is Allāh who created the heavens and the earth and sent down rain from the sky and produced thereby some fruits as provision for you and subjected for you[659] the ships to sail through the sea by His command and

subjected for you the rivers. And the environment, the ba'a, and the ba'a: the home, and it is said that the abode of the people is where they reside near a valley or the support of a mountain

The environment is all the natural resources that surround a person, whether they are living, such as plants and animals, or non-living, such as water, air, and land.

**Terminological Definition:**

The environment in terminology means the natural and artificial environment in which man lives, including water, air, space, soil, living organisms, and facilities established by man to satisfy his growing needs, as it includes a natural environment and another created by human activity. The word environment is one of the foreign words in the foreign language, and only French dictionaries recognize it. After the year 1972, the Stockholm Conference for the Development of Human Resources was held, in which he pointed out for the first time the danger of pollution facing the environment and introduced the word environment into the vocabulary of the French language dictionary in 1972, meaning the set of natural and artificial elements necessary for human life. In the English language, it means the conditions and things surrounding the human being and affecting them. In the growth and development of life, it is also used to express the condition of the air, water, earth, plants, animals, and all the conditions surrounding humans.

The environment can be defined idiomatically as (the surroundings with all its elements in which living organisms live). The environment can also be comprehensively defined as (the biosphere, which includes all components of the environment, which are water, air, land, and other natural materials, including living organisms and others). That is, the biosphere consists of the outer crust of the Earth, the atmosphere above it, hundreds of meters below the surface of the Earth, and the depths of the seas and oceans.

As for the aquatic environment, which is represented by water, it is the most widespread substance in nature and on the Earth, and it is a vital and indispensable element for the environment of humans and other plant and animal organisms. Water is the main element of life existing on Earth, and it is in limited quantities and distributed without balance in terms of space and time.

**The second requirement: protecting the aquatic environment:**

The aquatic environment is considered a common heritage of humanity and deserves all attention and study. Water shortages and the depletion of countries remain the most clear picture of water degradation in the world. Water is one of the most important elements of the environment and has a social value worthy of protection. Therefore, human intervention by enacting laws and establishing the necessary regulations, and based on that, we will divide this demand into Two branches: In the first section, we will address the protection of the aquatic environment from pollution, and in the second section, we will address the protection of the aquatic environment from illegal exploitation, according to the following:

**Section One: Protecting the aquatic environment from pollution:**

All countries of the world have been interested in protecting water bodies from pollution, and in order to achieve this, they have issued laws and legislation to protect them and achieve water security, under the supervision of their administrative bodies. Among these countries is Iraq, which was one of the pioneering countries in this field, and

since the enactment of the relevant laws in the ancient Iraqi civilizations that ruled Mesopotamia.

Therefore, public authorities in most countries of the world work to combat environmental pollution (of which water is one of its elements) and protect it in various ways. To achieve this, administrative control legislation has been established that aims to preserve public order, because public order is subject to a serious threat if the environment is polluted, and water is considered one of the elements. Its most important elements. ( )

Therefore, in 1961, the World Health Organization issued a definition of water pollution in which it says: "We consider a watercourse to be polluted when the composition of its elements changes or its condition changes, directly or indirectly, due to human activity, such that this water becomes less suitable for the natural uses intended for it"

### **Section Two: Protecting the aquatic environment from illegal exploitation:**

Water issues have become an important place for us in international relations, and this interest is constantly increasing with the increase in influences that predict a significant decrease in water quantities. Our specialty is that achieving political and economic security for any country is linked to achieving water security, and one of the indicators that indicate a decrease in water quantities is the lack or decline of water. In several countries due to several factors, including what is natural related to the nature of the climate, as most Arab regions are characterized by dry or semi-arid climates and high temperatures, thus increasing evaporation rates, in addition to the lack of rainfall and not exploiting and storing it during flood seasons to benefit from it in times of drought, in addition to the large increase in population numbers, accompanied by social and technological developments that contribute to increasing the use of water and its uses in large quantities, in addition to the fact that water sources are located in some countries, including Iraq, outside their borders. Therefore, they remain subject to the will of the countries in which the sources of these rivers are located, and some of these countries in which these sources are located refuse Regarding adherence to international laws that regulate the process of exploiting shared waters between countries, and Turkey is one of these countries. By virtue of being a source country with which Iraq shares water resources, we note that Turkey has worked for the Tigris and Euphrates rivers for a long time to exploit the shared water resources, taking advantage of its being the source country for these two rivers, indifferent to the effects. The negativity that falls on their course, especially the section related to Iraq, has begun to establish projects and dams to achieve the greatest possible benefit from this water at the expense of its neighbors. Therefore, Turkish water policy is a threat to Iraqi water security. ( )

### **Legal legislation and administrative structures to regulate and protect water:**

To protect water resources as one of the most important elements of the natural environment and the basic source of life on Earth, all countries of the world hastened to legislate constitutional and ordinary laws to protect water in their regions, including Iraq, which is one of the first countries to legislate such laws.

Therefore, in this section, we will discuss the legal legislation and administrative structures to regulate and protect water in two areas, as follows:

The first requirement: Legal legislation to protect and regulate water:

The legal legislation concerned with water protection in the country is divided into constitutional legislation and ordinary legal legislation, as in the following division:

The first section: Legal protection of water in the Iraqi Constitution of 2005 in force:

Article 33 of the Iraqi Constitution stipulates:

First: Every individual has the right to live in sound environmental conditions.

Second: The state is responsible for protecting and preserving the environment and biodiversity.

The Iraqi citizen is supposed to live in a healthy and clean environment, which is a constitutional right, and the state and its institutions must achieve this right, but reality indicates the opposite, in light of industrial progress and the spread of commercial and scientific activities.

However, man has depleted the environment of its renewable resources and energies and used pollutants such as chemicals, pesticides, hazardous waste, and industrial pollutants of various types and forms. Also, huge factories and the various activities that follow them have caused pollution in major cities, which has been reflected in human health and activity, and even his ability to work as well. In such circumstances, it has a negative impact on its environment, especially the aquatic environment

Section Two: Protection of water resources in internal Iraqi laws:

Several environmental laws and legislation have been issued in Iraq, the most recent of which is Law No. (27) of 2009 and subsequent legislation that follows it, with the aim of facilitating the implementation of its provisions. Given the severe deterioration taking place in the Iraqi environment, the matter supports the need for sound legislation from both a scientific and legal standpoint and its careful implementation, as the Ministry of Environment issues regulations and instructions. In accordance with Environmental Protection and Improvement Law No. (27) of 2009 and Ministry of Environment Law No. (37) of 2008. ( )

There are a large number of Iraqi legislation and laws concerned with protecting water and the biodiversity found in it, and we mention them as examples, but not limited to them, as follows:

1. Law No. 48 of 1976 regulating and protecting the fishing of aquatic organisms.
2. Wild Animal Protection Law No. 17 of 2010.
3. The Iraqi Penal Code No. 111 of 1969, as amended.
4. Iraqi Explosive Materials Law No. (20) of 1957.
5. Environmental Protection and Improvement Law No. (27) of 2009.
6. Iraqi Ministry of Agriculture Law No. (7) of 1993, amended, Article.

**The second requirement: The administrative structure concerned with regulating and protecting water in Iraq:**

In Iraq, there are a group of administrative bodies concerned with regulating and protecting water in the country through the application of internal laws and legislation that were enacted for the purpose of protecting bodies of water and organizing work in them and protecting them. Therefore, we will divide this requirement into two branches. The first section will address the administrative bodies concerned with the protection of water resources, and the second section will address the administrative structure of the administrative bodies concerned with the protection of water resources, according to the following division:

**Section One: Administrative bodies concerned with protecting water resources:**

The Environmental Protection and Improvement Law has assigned the task of preserving the environment and reducing damage to it and treating it to two bodies: the



Federal Environmental Protection and Improvement Council and the environmental protection and improvement councils in the governorates, and since the Ministry of the Environment has been assigned the task of preserving and improving the components of the environment and preventing their deterioration, pollution or contamination. Reducing pollution according to its formation law No. 37 of 2008, so it is considered one of the agencies concerned with protecting the environment.( )

There are many agencies concerned with environmental affairs and water protection. Some of these agencies are governmental and have specific tasks in accordance with various laws and decisions, while others are private and voluntary, which voluntarily carry out their role in protecting the environment from pollution. Also, some of these agencies work at the national level and some work at the local level, and their nature varies. The activity of these bodies is that some of them are charged with executive tasks, some of them play an advisory or planning role, and some of them prepare the necessary scientific and technical research and studies in the field of protecting the environment from pollution, especially the protection of water resources.

#### **Section Two: The administrative structure of the administrative bodies concerned with the protection of water resources:**

Due to the importance of water, the Iraqi legislator paid remarkable attention to the issue of water pollution. Perhaps this is clear in the reasons for issuing the Environmental Protection and Improvement Law No. 3 of 1997. Article (19) of it prohibits the discharge of any industrial, agricultural, domestic or service waste into rivers, water bodies or groundwater except After carrying out the necessary treatments on them to ensure their conformity with environmental regulations, instructions, and specifications, it is also prohibited to throw waste, animal waste, corpses, and waste into water sources, including drains, or drain oily waste, fuel residue, or toxic materials such as pesticides, heavy metals, and other toxic compounds into sewage networks and water bodies, or connecting Draining sewage from homes, factories, and other facilities into rainwater networks. ( )

It is worth noting that the Council for the Protection and Improvement of the Environment has issued a number of decisions with environmental significance, including Resolution No. (5,4,2) of 1991, considering the drainage of waste water from residential complexes and public stores directly into rivers in areas connected and not connected to public networks, and the release of petroleum derivatives. By the tank cars loaded with them to water sources or sewers, environmental violations make the perpetrator subject to punishment, as the Iraqi legislator required in Beach Exploitation Law No. (59) of 1987, amended by Law No. (7) of 1990, the text of its fourth article (on the establishment of orchards and buildings And other projects on both sides of the river in front of or behind the regular dams, which do not affect the flow of the river's course or its pollution. The Ministries of Interior, Irrigation and Agriculture, and the Mayor of Baghdad, each within their responsibilities, are authorized to remove facilities that are built in contravention of what was mentioned above at the expense of their owners and without compensation when these parties see that these facilities are obstructing. stream and water pollution) in addition to the financial fines resulting from the violation. Water protection was not limited to a specific law or system, but rather extended to all laws related to water protection.

#### 4. Conclusion

It was found through the research topics that Iraq suffers from a severe shortage in its water resources, especially in the course of the two rivers, the Tigris and Euphrates, and the water bodies in its south, represented by the marshes, and that this severe and severe shortage is sometimes due to natural causes represented by evaporation, consumption, and incorrect use, and again due to unnatural causes, represented by misuse. Illegal water policies followed in neighboring countries, especially Turkey, due to its imprisonment of the waters of the Tigris and Euphrates rivers from its neighbor Iraq, which is the natural partner of these rivers, is not committed to the constitutional laws that regulate the exploitation of water resources shared between countries, and the best legal remedy to solve this problem is the trend To international law and enter into joint talks between Iraq and Turkey under the cover of the United Nations to address this major problem from which Iraq suffers.

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