

# Civil Protection of the Natural Reserve - A comparative study between Egyptian and Iraqi law

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In light of the changes that the planet is exposed to, starting with the phenomenon of global warming, recent Amazon forest fires and ice and snow melting in both poles of the earth, plants and animal species were exposed to the danger of extinction. Indeed, animals and plants began to become extinct in the midst of these conditions. Recently, the white rhinoceros in the Kenyan "Begeta Reserve" has become extinct, as well as the extinction threat that follows the "Monkey Puzzle" tree, which is considered one of the evergreen plants and its origin, Chile's forests and many others. Despite the efforts made by the international community and most developed countries in the world, and even the attempts of the third world countries, The industrial and technological revolution continues to inflict its harmful effects on the environment. The first losers in this process are living organisms, because of the consequences that the world went through. The collapse in the system of proper environmental balance was an inevitable result of the wider use of "unclear" energy, such as these which resulted from undesired chemical interactions. These factors have made the world stand as warned about what is happening in the ruins of nature. The countries have worked to create a constructive environment that simulates the natural and innate conditions necessary for the living of those animals and plants.

**Key words:** *Natural Reserve, animals and plants, international community, plants.*

## First: The Importance of the Study

According to the above -mentioned, nature reserves have become a field of study and research in order to achieve optimal protection for the environment and work to spread a culture of "no pollution, yes to a sound environment." Pollution is considered the scourge of the age, in addition to giving the global characteristic of the topic of natural reserves that has

started to increase all over the world. Through the interest of international organisations in this issue, the countries need to commit to national legislations to take into account the developments on the international scene.

### **Second: The Problem of the Study**

The research attempts to answer several problems that may represent thorny legislative obstacles, perhaps the most important of them are:

1-What is the basis of this protection? Is it only represented by the civil law, which includes general rules that are adapted to give protection to nature reserves, or are there legislations for them that are a direct source for extracting rules that protect nature reserves civilly?

2-Are there certain means that achieve the responsibility of the reserve for specific activities? And does that reverse to protect it from liability in the sense of is the concept contrary to the texts implemented to achieve the desired protection?

3-What is the legal basis for claims to protect the natural reserve? Is its basis in civil law - for example, the damage of neighbourhoods theory - the same in environmental protection laws? And if the basis is united, on what basis of law is the claim conducted? And what is the specialised court?, is it the civil court? or is there a specialised court in environmental claims, including natural reserves?

4-Who has the capacity and interest in raising a claim to protect the natural reserve? Are they ordinary people (the owners of the reserve or their representatives) or a person with a certain capacity granted to him by law or the state?

5-Is the effect of the claim only compensation, or are there other civil penalties and other felonies?

### **Third: The Scope of the Study**

In fact, the issue of protecting natural reserves is thorny, as it is mentioned in international agreements, international treaties and international and regional conferences that resulted from those agreements.

### **Fourth: Research Methodology**

In our research, we adopted the approach of the comparative study between Iraqi and Egyptian law, within the scope of Iraqi civil law, Egyptian civil law, and environmental protection laws, as well as mentioning the positions of the Iraqi and international judiciary regarding the subject of the study as much as possible.

## **The First Topic**

### ***Legal Foundations for the Protection of Natural Reserves between Domestic and International Legislation***

Parliaments in the countries have drawn up legislation after studying material from the committees concerned with environmental issues. This attracts their attention to the enactment and legitimacy of laws that can achieve full protection for natural reserves, including rare plants and animals threatened with extinction. This involves a search for the legal basis through which nature reserves receive legal protection, and responsibility for the damage that results from the actions of those responsible for such activities to the natural reserve to perform its functions for which it was found, as well as researching the nature of the damage, leading to the rise of civil responsibility and the nature of compensation for it. Noting that the damage caused to the natural reserves is not limited to the harm of others in money, or in himself, but rather extends to the damage to the environment and its natural elements.

The first emergence of the idea of establishing natural reserves in Iraq was in the early seventies of the last century, and the idea was repeatedly raised, but it was not possible for it to exist except in 1984. Finally, the number was three and the first was in the northern region, the second in Lake Ther Thar and the last in the marshes in southern Iraq, but wars were an obstacle to the establishment of these reserves and some of them were looted. Starting from the first Gulf War in 1980 and ending with the American invasion in 2003, the Iraqi government is working to rehabilitate it and create others, but there are no financial allocations covering such huge projects (Sultan A.1998). Accordingly, the natural reserve is defined as: an area of land or water that includes living creatures, such as being plants of rare quality or animals that are almost extinct. This area may contain certain advantages of cultural, aesthetic or natural or scenic establishment, and therefore it falls under the protection of the necessary legal measures to preserve this wealth and sustain its development.

In Egypt, natural reserves were defined according to the text of the first article of the Law of Natural Reserves No. (102) for the year 1983 amended: "Any area of land or coastal or domestic waters characterised by living organisms, plants, animals, fish, or natural phenomena of cultural value or scientific or aesthetic and determined by a decision of the Prime Minister based on the proposal of the Environmental Affairs Authority in the Council of Ministers."

## First Section

### *The Legal Basis for Civil Protection for Natural Reserves in Light of the Provisions of the Applicable Civil Law*

Perhaps one of the first legal texts in the current Iraqi civil law through which the natural reserve can benefit from is the texts of the harms of the neighbourhood. The Iraqi legislator stipulated in Article (1051) of the above mentioned law, which states: "The owner may not conduct in his property anything harmfully that may cause damage to the neighbour". 2- The owner who is threatened with damage to his property as a result of digging or other work occurring in the neighbourhood, may request that all necessary measures be taken to prevent damage. He may also request the suspension of works or take the urgent precautions required, till the court settles the dispute. 3- And if someone is acting in his possession lawfully, and another comes and creates a construction beside his property and cause harm, he must pay the harm himself. " And therefore, the natural reserve must act by the person who represents it within the limits set by the Iraqi legislator. Otherwise a, is considered arbitrary in the use of his right, and the provisions of Article 7 apply to him. From the current civil law and so it will be out of the authorities which authorised by law (use, exploitation, and disposition) that provokes this responsibility.

If, for example, it was a natural reserve for raising chickens, and it was not far from the city centre, accordingly, not all the damages that may arise from the activity of the reserve are asked by the owner or the authority responsible for managing it, as there are small damages that people are used to tolerating among themselves in order to continue social life, and in order not to be handcuffed to the owner for the use of his property. So it is not fair - but assessing whether the damage is obscene or not is within the judge's discretion ( Sultan.A 1998). It is noted that outrageous damage is not only material damage, such as sabotage left by the owner of the reserve while he is disposing of dangerous environmental (toxins) or wastes resulting from the activities of the reserve. It may be incorporeal damage, for example, if the electric lighting of the reserve at night is very bright, affecting the role of farmers or nearby villages, so that they are uncomfortable and lose sleep . Based on the aforementioned, we conclude that the responsibility of the reserve does not arise unless it results in gross harm and does not express any intention with the intention of its administrator.

As for the situation in Egypt, Article (807/2) of the Egyptian Civil Code stipulates: "The owner must not overstate the use of his right to a degree that harms the property of the neighbour, and the neighbour does not have to return to his neighbour with the harms of the familiar and unavoidable neighbourhood, but rather that it is requested to remove these harms if they exceed the usual limit .. " Here, the Egyptian legislator described unfamiliar

neighbourhood damage as "unavoidable" and here he took into consideration future developments to avoid any circumstances that might arise.

### **The Second Branch**

#### ***The Legal Basis for Civil Protection of the Nature Reserve In Light of the Applicable Environmental Legislation***

The legal basis for protecting the natural reserve in light of environmental legislation can be defined as: A set of legal texts contained in environmental protection laws that provide for the protection of natural reserves. In order for the natural reserve to distance itself from any legal accountability, the person who manages it, in addition to compliance with the provisions of the Iraqi civil law that we have touched upon, must observe the environmental legislation related to the activity of its reserve. When exercising the rights granted by law to them in and over the nature reserve:

**1. Precautionary Measures:** The owner or owners of the natural reserve should provide means and a system for dealing with pollution resulting from its activities, provided that the cleaner technologies are used, and remedy the defect if it occurs and the Ministry of Health and Environment notifies it accordingly, as well as providing measuring devices for pollution and recording the results in a register held specifically for this purpose in order for the Ministry to take the necessary action, and if it violates that, it will be warned ( Dr. Abdel-Salam S.S. 1999).

**2. Be Careful in the Use of Radioactive Sources:** - It must observe the conditions set by the inspection teams affiliated with the Radiation Protection Centre, and if he does not respond to the warning periods specified under the Radiation Protection Law No. 99 of 1980, works on the radioactive source will be suspended. This is of course if the reserve needs radioactive sources to protect certain animal species, or to conduct a specific study, research, and the like ( Dr. Taher A.2018). In Egypt, the Egyptian Court of Cassation ruled on December 2, 2001, "the responsibility of the contracting company that works in the field of welding and laying gas lines, as it is the guardian of the radioactive body of uranium because it is one of the things that requires special attention."

**3. To Take into Account the Establishment of the Natural Reserve in a Set of Criteria, Including:** natural, such as taking into account genetic diversity, and regional , it must be established within the geographical area of the state that does not overlap with the borders of other countries, including social ones, so as not to establish a reserve for pigs in an Islamic state, as an example (Hamad R.R. 2016). In the same manner, the Egyptian legislator prohibited the introduction of foreign species into the natural reserves ( Dr. El-Melegy A. N.D.).

4. The owners of the natural reserve must have experience in this field and take into account the availability of conditions for the establishment of the natural reserve such as the availability of one or more rare species (animals or plants) or those threatened with extinction, and the multiplicity of sources of financing and capital (Dr. Al-Nadawi A.W. (2015).

5. Regulating the lighting levels in the natural environment of the reserve and disposing of the wastes resulting from the activity of the reserve by burying them if they are dead animals or burning them in certain places, especially if they are dangerous materials (such as the pesticides residues) (Priyara A. 2013).

6. Refrain from establishing camps inside the reserve unless with the approval of the Ministry of Health and Environment, and the introduction or settlement of exotic animal or plant species, and not to exercise any military manoeuvres or sorties from within the nature of the reserve, and it is not permissible to establish an airport or building inside the reserve, in the sense that it is not permissible to change the quality of land use, and it is not permissible to threaten the stability of caring for plants and animals in the natural reserve, and an official license must be obtained when using the vehicles necessary to manage the natural reserve (Dr. Ali G.A.R. (2003). And the third article of the Egyptian Natural Reserve Law No. (102) for the year 1983 referred to the same meaning, as it prevented any work, activity, behaviour or experience in the natural reserve area if it would affect the environment of the natural reserve without permission from the competent authorities.

7. Coordination with the competent authorities and the population regarding the support, encouragement and development of traditional knowledge that positively affects the components of biological diversity (Dr. Al-Saghir M. 2005).

In this way, the person who manages the reserve can protect his reserve by abiding by the aforementioned, to name a few, so that he can at the same time enjoy the protection of the law for him from any infringement of others or from him to use his rights.

## **The Second Topic**

### ***The Lawsuit to Protect the Natural Reserve in the Civil Legislation***

A lawsuit to protect the natural reserve from what may be infringed upon or transgressed is a case that the judiciary considers and is a potential for the natural reserve and a legal container that authorises it to seek the right authority to obtain its right if it harms (Ibrahim.T .2011) it, the damage to the reserve includes various circumstances: it may be material damage, such as damage to rare plant species sponsored by the reserve, or the destruction of water tanks located within the geographical area of the reserve, or hunting some of the animals endemic to the reserve, and this may be significant damage, such as attacking a natural reserve, for

example, through television screens or social networking sites, as they contain hybrid animals in violation of the law, or if they sponsor animals or plants against customs and traditions - as mentioned above - that this attack would stir public opinion upon it, here it has the right, if it proves contrary to these allegations, to demand moral compensation to preserve its dignity, this and the damage may be personally affecting the property of the reserve or its board of directors or employees and all its members directly; this lawsuit may confront these damages.

As for the way to prevent these damages, it is (the case of protecting the natural reserve), which is lodged by the owner of the reserve or the authority based on its departments or its legal representative, which appears before the civil judiciary represented by the (Court of First Instance) in Iraq represented by the court of the real estate site (i.e. the geographical location of the protected place), with the injured person retaining his right to initiate it according to the criminal case, in the form of a civil suit affiliated with the criminal case pending before the criminal court, if the damage in question is caused by a crime in accordance with the provisions of the Penal Code No. (111) for the year 1969, as amended (Dr. Kamel.N. 1991).

And between this and that, we will address in the first demand of this topic: conditions for accepting a lawsuit to protect the natural reserve, and in the second demand we look at: the parties to this lawsuit, and the third demand: we allocate it to determine the impact of the initiation of this case and as follows:

### **The First Requirement**

#### ***Judicial Conditions for Accepting a Case to Protect the Nature Reserve***

The conditions for accepting the lawsuit are those requirements that are necessary to move the lawsuit, and according to the general rules, the lawsuit is not considered acceptable to be brought before the judiciary unless it meets a number of conditions, including:

- **Eligibility:** Article Three of the Iraqi Civil Procedure Law No. 83 of 1969 amending requires that both parties to the case (the plaintiff and the defendant) have the legal capacity to initiate the case, which is reaching the age of majority for the natural person, otherwise, his legal representative must act on his behalf and every natural or legal person is eligible for retirement unless the law limits his eligibility for a minor, disability, bankruptcy and the like (Al-Minyawi.Y. 2005). As for the natural reserve, it does not depart from being a legal person practicing its claim from its legal representative (Dr. Abdullah.M 2007), provided that the lawsuit relates to the damages related to the reserve itself. The case shall be returned if the owner of the reserve or the reserve is not available as a legal person necessary for the claim.

- **As for the Interest:** It is stipulated that the damage to the natural reserve must be focused on a legitimate right interest, in the sense that there is a desired benefit from filing the lawsuit, such as if it is damaged by excavation work in the neighbouring eye, such as exploration for antiquities or other things that put the reserve at risk if it misses a legitimate interest in benefiting from the building, which is home to the plants and animals it sponsors, and it is required in the interest that it be possible, direct and known according to the general rules (Youssef.M .N.D.), and this condition is the motivating factor behind the filing of the lawsuit and its intended purpose, and it is not considered a condition to accept it only, but to accept any payment or request in it (Baraki.Z. 2016). Dr. Al-Sharqawi defines interest as: "It is the need to protect the law for the right of the aggressor or threats to attack him, and it is the benefit that the plaintiff gets by achieving protection for himself. In the meantime, Article (6) of the Iraqi Civil Procedure Law states: 'It is stipulated in the case that the defendant must have a known interest and a possible and verified case ... .' So, the lack of direct personal interest in the person filing the lawsuit leads to dismissal of the lawsuit.

As for the status (litigation): It is the right to initiate the case, and the case is not accepted by a foreigner from the reserve to protect the reserve, for example, a lawyer, legal representative of the reserve or any other person under a special agency under the provisions of the law (Dr. Muhammad.M. 2010). And the case must be directed against a specific opponent, and the case should not be adjudicated by restitution, meaning that the litigation is a prerequisite for accepting the case ( Dr. Al-Nuaimi.Z (2018), this is what Article 4 of the Civil Procedure Law stipulates: "A- that the lawsuit is filed against a legal litigant .."

These conditions may not be consistent with the nature of the damage to the nature reserve, which is characterised by privacy, since the latter is supposed to inflict multiple persons, with which it is necessary to exercise the right to file a lawsuit from multiple persons also, which means multiple claims, for example: the nature reserve maintains the lawsuit by its representative for acts of destruction and vandalism, which is inflicted on it, if, for example, the sheep herder grazed his sheep in it, causing uprooting of rare plants, and likewise the owner of the reserve assesses his claim against the owner of the neighbouring plant, if there is, he will file a lawsuit against him, asking him, for example, to throw the waste of his lab in designated places far from his reserve, and the neighbouring residents will evaluate his case with a view to protecting themselves (Dr. Attia.I .2012)from dust and fumes from his factory, as there is no doubt that the damage will extend to them. This prompted the jurisprudence to adopt the idea (the specialised association) in the field of the environment, whose mission is to initiate the case against all those affected, including the natural reserve before the judiciary. By filing a lawsuit for environmental pollution caused by others, or with environmental reserves or projects, except (The agency responsible for environmental affairs). On our part, we support the trouble that the Egyptian legislator, who was entrusted with the task of filing a lawsuit to protect all environmental elements with the above, went to.

Perhaps his intention in this is to avoid problems and difficulties that might arise if this right was granted to multiple people at the one time. In Iraq, the Iraqi legislator in the Law on Protection and Improvement of the Environment in effect introduced the function of (Environmental Observer) in Article (24 / First) in his speech on environmental control, in which he singled out a number of the articles starting with Article (22 to Article 25) thereof, whereby the mentioned article states: "The environmental observer shall be granted the status of a member of the judicial police who will be assisted during his work by elements of the environmental police. In order to carry out his duties, he shall have the right to enter the facilities and activities subject to environmental control during and after the official working hours."

## **The Second Requirement**

### ***The Basis of the Nature Protection Case***

The environmental legislative system in Iraq lacks special legal rules in the area of the lawsuit to protect the natural reserve, and we have not seen these in the Law on Environmental Protection and Improvement No. (27) for the year 2009.

### ***The Notion of Mistake to be Proven As a Basis for a Lawsuit to Protect the Nature Reserve***

The Iraqi legislator has organised the provisions of this responsibility in Article (168) of the effective Iraqi civil law that meets three conditions, the first of which is: the error, and the second: the harm, and the third: the causal relationship between them. The error can be defined as: a violation of a previous legal obligation issued by awareness. This commitment is embodied in respecting the rights of all and not harming them. It is an obligation to exercise care, as the obligor is required to be vigilant, attentive, careful in behaviour, and the criterion in determining the foregoing is the care of the usual man. It can be said that this error has two pillars. The first is material, which is transgression, and the other is moral, which is perception. The error in general is subject to the discretionary court of the subject without supervision by the Federal Court of Cassation, while adapting the act upon which the claim is based on the request for compensation as a mistake or not. It is subject to the control of the Federal Court of Cassation. Everyone who engages in industrial or commercial activity that may cause harm to a natural reserve in any way, whether in the form of gases, radiation, sounds, or bright lights, bears full civil responsibility for it on the basis of the error to be proven, and does not ask if he cuts the causal relationship between his act and the damage he causes that damage to the life of living creatures as an assumption. For example, the owner of the neighbouring factory may throw harmful substances to the neighbourhoods in the aquatic environment and the natural reserve, its users supplying the river water to the reserve could lead to the death of the rare fish wealth that the reserve sponsored. Here, there is no escape from being subjected to legal accountability in accordance with civil legislation. This

is called positive action. Whereas the negative action or abstention can be in the form of a person's failure to come up with an act ordered by law, and he was able to do it as if, for example, the shepherd did not take the necessary precautions that prevented him with his sheep entering the herd in the yard of the natural reserve and destroying the rare plants. All of what has been mentioned above is not trespass on the part of civilians unless the causal relationship is achieved between the error and damage. Article 163 of the Civil Code of the Iraqi force states that: "Any wrong causing harm to others requires commitment to compensation." It is also worth noting that the applicable Law on Environmental Protection and Improvement has been exposed in Article (32 / second) of it to this type of error - that is, the error in the form of abstinence. The above article stated: "In the event of its negligence, or abstention from what is provided from what has been mentioned in the first clause of this article, the Ministry may, after being notified, take procedures to eliminate the damage and return the cause to that it incurred for this purpose, in addition to the administrative expenses, taking into consideration the following criteria: (a) The degree of severity of the polluted materials of all kinds. (b) The effect of pollution on the environment at the present time or in the future." As the text is considered above to be precise, it referred to the danger which is a gesture from the Iraqi legislator to prevent accountability for the cause of the damage, as the latter may be due to a foreigner who has no hand in it, or even the act of the aggrieved person himself or the act of others. Here, the causal relationship between his action and the harm is severed. It maintains responsibility and at a time when the law establishes its rules for protecting rights, it is incumbent on the right person to avoid all behaviours, which would infringe on the rights and interests sponsored by the law, and be aware of the consequences of his actions, and this obligation is assumed to be possible to fulfil it. As there is no obligation, impossible, and no commission except for what is within one's ability (Anwar Sultan. 1998).

## **Section Two**

### ***The Notion of a Presumed Error as a Basis for a Lawsuit to Protect the Nature Reserve***

This idea is crystallised if the general rules fail to provide an adequate basis for the responsibility based on the error to be proven and resulting from the damage to the natural reserve. Modern legislation defines this type of responsibility, which is embodied in two forms: the first that is the responsibility for the work of others and the responsibility for things where Article (231) of the applicable civil law states: "*Anyone who has at his disposal mechanical machinery or things that require special care to prevent their harm shall be responsible for the damage he causes unless he is proven to have taken adequate care to prevent such damage from occurring, without prejudice to what is stated in this is a special provision.*" The commitment promised by the above article to exert care and responsibility can be avoided if it is proven that he has taken adequate care to prevent the damage from occurring, but it occurred due to a foreign cause. For example, i.e. a simple legal presumption, and this is what the Iraqi Court of Cassation stipulated ( Anwar Sultan. 1998).

The text of the above article can be considered as a legal basis for everyone who has caused damage to the natural reserve because it mentions the responsibility of *"everyone at his disposal mechanical machinery or things that require special care to prevent harm"* unless it interrupted the relationship between everyone's action and the damage. The Iraqi legislator went further than that – it was good of him - when he decided *"this without prejudice to the special provisions contained in it."* As it gave way to accountability for every act that violates a civil right that is protected by the civil law or any other special law.

The Iraqi legislator in the Law on the Protection and Improvement of the Environment implementing this idea took a basic arrangement for filing environmental protection lawsuits in general, and the natural reserve protection in particular, in Article (32 / III) which stipulated: *"It is the responsibility of the cause of the damage caused by Violation of the provisions of items (first) and (second) of this article are presumed."*

As for the situation in Egypt, the Egyptian legislator has adopted in the civil law the same as what his Iraqi counterpart adopted, by stipulating in Article (178) of the aforementioned law: *"Anyone who takes care of guarding things that require special attention or guarding mechanical machines shall be responsible for the harm that these things cause, unless it is proven that the damage was caused by a foreigner who has no hand in it, without prejudice to the special provisions contained therein."* So, the situation in Iraq, as its counterpart in Egypt, in terms of dividing the responsibility on the basis of the error and the duty of proof and the assumed error.

## Conclusions

Finally, it is worthy of us to highlight the most important research findings by examining the most important conclusions and recommendations, and they are the summary of the research and its fruits, so we divided the conclusion into two parts, first, we touch on the conclusions, and in the second we list the recommendations, as follows:

### **First: The Study has Concluded the Following:**

- 1- The weak legislative cover provided by the civil law and the law protecting and improving the environment in force for natural reserves and their weak guarantees for them because the two laws above took the theory of the presumed error issued by others so that the natural reserve can by means of its agent claim compensation while the Iraqi legislator could take the idea of responsibility. Objectivity based on harm without regard to the element of error is known in Iraq in the name of the idea of risks or non-faulty responsibility, and according to the text of Article (321) of the aforementioned Iraqi Civil Law and Article (33) of the Permanent Constitution of the Republic of Iraq for the year 2005 which states: Do not: Everyone has the right to live in safe environmental

- conditions. Second: The State shall ensure the protection of the environment and biodiversity and preservation.
- 2- If the owner of the natural reserve is committed to taking care, caution and familiarity with the legal texts governing the activities of his reserve and, as mentioned in this research, he is blessed with the protection of the laws related to this activity, and otherwise he is subject to legal accountability for any damage he causes to others or to the environment.
  - 3- Compensation is nothing but the effect of filing a lawsuit to protect the natural reserve, and it may be in kind or in cash, and the ruling on the latter depends on the impossibility of the first investigation, with the judge retaining his discretionary authority to rule for compensation without oversight by the Federal Court of Cassation.
  - 4- The Environmental Protection Fund is the ideal form to compensate for damages that may be caused to the environment in general and nature reserves in particular, and it has mixed funding from the state and from the owners of projects that carry out activities that threaten the environment and are based on two bases, either as a reserve or supplementary to compensate the injured.
  - 5- The lawsuit for the protection of natural reserves is filed before the civil court, represented by the Court of First Instance, and the legal provisions that apply to the civil lawsuit generally apply in terms of the attendance and absence of the plaintiff and the defendant, and the suspension and annulment of the lawsuit, judicial notices, and others according to the due process.
  - 6- Interest of the international environment in environmental issues, and it is noticed that it is excessive in holding international conferences in this regard, and condemnation of pollution and putting an end to it by concluding international agreements and treaties, and notes that it has not achieved the objectives set for it and it's desired, and we hope that the Iraqi legislator will proceed in the field that is considered in it; preserving the environment and natural reserves is a national duty.
  - 7 - It can be said that the rules of neighbourhoods harm, that theory that was born in the arms of the French judiciary and adopted by the Egyptian and Iraqi law, are the ones that govern the civil protection of natural reserves and do not require the error of course to determine responsibility - and here the Iraqi legislator is approaching the idea of the principle of bearing responsibility - Rather, it requires that the damage caused to the neighbour by the natural reserve be obscene and uncommon, regardless of the availability of the wrong element or not.
  - 8- It has been observed that there have been natural reserves in Iraq since the 1970s, but like other possessions possessed by Iraq during wars, they were looted, and we call upon the rational government and the revered parliament to legalise laws and activate them to preserve those fortunes under any clause and any future threat.

## **Second: Recommendations**

### ***We Recommend the Following:***

- 1- In view of the slow strangling procedures of litigation that prevail in the courts, we suggest the establishment of a judicial composition consisting of judges, experts and technicians to adjudicate lawsuits for the protection of the environment, including lawsuits for the protection of natural reserves. The House of Representatives, upon a proposal by the government, will legislate a special law in this regard and with the blessing of the Judicial Council the above.
- 2- In order to bestow legal protection for the victim from anti-environment activities, we see the need for the Iraqi legislator to adopt the idea of non-wrongful responsibility in the field of environmental damage, and if it really exists, it is necessary to include explicit rules in this regard, i.e. updating its legal rules for tort and contractual liability and to be inferred certain of the idea of the supposed error.
- 3- In order to miss the opportunity to evade civil liability for the cause of the damage, we suggest linking the statute of limitations period for the protection of natural reserves to the date of the appearance of the damage and not to the date of its knowledge as is the case in the general rules.
- 4- In order to create a clean and healthy environment, we call for activating the role of the environmental observer and the environmental police mentioned in the Law on the Protection and Improvement of the Environment implemented in Article (24) of it to work to change the Iraqi person's behaviour towards a better concern for the environment and to spread ideas aimed at animal welfare And caring for the plants through audio-visual and researched media, in addition to the possibility of finding an environmental subject to be taught to primary school students to consolidate these ideas and establish them.
- 5- We suggest stipulating some precautionary measures and including them in the natural reserve system No. (2) for the year 2014, through which the natural reserve can, through its agent, immediately respond without the need to file a lawsuit to request legal protection when it is exposed to any activity that threatens its safety and the safety of its existing living creatures.
- 6- We suggest finding administrative, criminal, and civil laws specialising in the idea of a sound environment, similar to the existing laws such as the Military Criminal Procedure Law, which is special in relation to the Criminal Procedure Law.
- 7- We submit this recommendation to the wise government, hoping that it will work to establish natural reserves in accordance with a policy, mechanisms and goals set by it on a level of accuracy and transparency and with specialised competencies.
- 8- Implementing the natural reserves system No. (2) for the year 2014 and activating the text of the article (8- First) from it and choosing the reserve managers from specialised cadres and preparing workshops, courses and seminars to train workers in this field, and there is



nothing to prevent from benefiting from the experiences of developed countries by attracting specialists in this field.

- 9- The necessity of providing adequate financial credits established according to a complete legislative cover through which the natural reserves that have been looted, and the events of other new reserves can be rehabilitated, as well as, for example, making the road paved, with facilities by the Ministry of Health and Environment and supporting projects of this type.
- 10- While environmental pollution is not a new phenomenon, it was not exposed in its wake, and has cast a shadow over the environment since the era of the industrial revolution, so legislators must amend the Environmental Protection and Improvement Law No. (27) for the year 2009 and the Natural Reserve System No. (2) for the year 2014, which includes legal formulations that protect natural reserves from the damages of the prevailing industries in particular, and to control the activities of those factories in a way that preserves the Iraqi people the right to a healthy environmental life.

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