

An Environmental Laws Analysis of Iraq Air Pollution Control

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Abstract: Iraq suffers from a much higher degree of air pollution. where, Air pollution represent a major challenge both today and for the future, because The problem of ever-increasing traffic volumes, concurrent with the associated risks to humans and the environment from automobiles exhausts emissions. Environmental concerns can be translated into work in a diversity of processes. Government can control the harmful activities to air by their inhabitancy through enforce law, it can formulate policies and improve institutions to observe and implement environmental approaches and priorities, and it can alter the behaviour of their inhabitancy by building up public awareness around environmentally proper practices. But unfortunately that these laws and policies have not been properly enforced due to some problems such as corruption, non – coordination, Lack of environmental expertise, weak execution etc. This papers will discuss constraints face the environmental legislations and policies in Iraq to tackle the problem of air pollution. It relies on primary sources namely, in-depth interview with participants in different criteria such as the professionals including experts, officials, and academics and supported with secondary sources Iraq.

Keywords: *Environmental Legislations, Environmental Policy, Iraq.*

I. LITERATURE REVIEW

Al-hadeethi (2012)emphasize that the issue of pollution of the environment is a legal issue before everything. it is necessary to expand the legal duties and commitments concerning the protection of this environment. In order to eliminate the pollution has to be repair for existing laws and issuing new laws that cares about the environment. she assert on the important role of the legal legislations in the preservation of environment, And that any deficiencies in these laws reflected negatively on the components of the environment.

According to Mnahi (2009) these laws did not include rules that penalization of negligent behavior or Non-implementation of environmental commitments for environmental employee. The negligent damage and non-implementation are alike because both involve hazardous behavior and because both violate the rules of law and morality. but This behavior is subject to Act of discipline of state employees and public sector No 14 of 1991. while Jurani (2010) Adds that it is a legislative vacuum, Because it is supposed to including these environmental laws on provisions to penalize negligent employee toward protecting air from pollution. What, then, is the justification to include the environmental laws of punitive legal sanction for imposing on neglected environmental employee. on rational basis supports determining a penalty for environmental employee negligent and non-implementation damage attributed to voluntary wrongs committed in the field of air protection, perhaps in the course of a whole environment. This neglect regard to the implementation of environmental laws. consequently, lack of provisions punitive in the environmental laws regard to

environmental employee will be given rise to decisions harmful to air protection.

that the jurists and academics in Iraq have advocated for the serious application of environmental laws so that all humans may enjoy their fundamental rights of life and Livelihood, insure the right to environment that contains a clean air. There are certain parts of it which are relatively good but needs strengthening. There are specific parts of it which are not so good and their worry was that these will probably lead to more deterioration of air quality and more air problems. When the environmental rules have been found insufficient in securing these objectives, that the jurists and academics suggested and recommended various amendments of law and brought into Iraqi government through their views and studies to reform laws. It is thereby evident that the question of enforcement of environmental laws and standards, or the task of amending them, is a non-trivial procedure. it is necessary that any changes are proposed to the main framework are undertaken with the utmost care and sensitivity, and based on deeply of consulting elected representatives from Local Government, Legislatures, the Parliament, environmental experts and MOE.

In this connection, Annual reports to the Office of general Inspector in MOE, stated that the environmental governance in Iraq needs to be made much more coherent and streamlined. Engaging the public, creating awareness and promoting people's involvement are essential in strengthening and securing the clean air. People are the ones who are worst affected by environmental mismanagement and their voice needs to be strengthened in the process of protection of air, and ensure greater public participation in this respect.

A. Research Objectives

The main objective of this study are To examine The problems facing the implementation of environment laws and policy in protecting environment against air pollution. and to help the government in solutions making to remediation the problem of air pollution and conservation it through applying appropriate environment laws and good policy in Iraq.

II. METHODOLOGY

This study is basically a legal study and qualitative research which includes the use of qualitative data, by Primary data includes such as interviews, documents, and participant observation data and Secondary Data is in the form of textbooks, government publications and academic journals. Newspaper articles, internet sources. The sample size of this work will be 10 participants of environmental government leadership, environmental stakeholders in different criteria.

III. DISCUSSION

the environmental legislations in iraq include:- "Law No. (27) of 2009 for Protection and Improvement of the Environment";

the law of Ministry of Environment 2008; and the order (4) of 2012.

The major objective of these laws are to improve the quality of air and to prevent, control, or reduce air pollution in the country. The order provides It provides abundance of definitions and clarifications for concepts that dealing with air. Such as, air pollution, polluted source, ambient air, ambient air quality, status of ambient air quality, determinants of ambient air quality, emission, quality emission, the emission source, determinants of quality emission, exhaust examination, environmental observer, solid waste, medical Waste, and fossil fuels. For example, it gave definition for air pollution "Air pollution is the introduction of chemical substance on form gases, fumes, dust, biological molecules, physical energy, noise, non-ionizing radiation, and Intense light into Earth's atmosphere in harmful amounts for certain periods, by directly or indirectly way it cause harms to human or other living organisms or not living components of the atmosphere". This definition involves on the broad concept of air pollution due to it is include of introduction of any harmful substances to atmosphere which cause diseases in humans; it may also cause harm to other living organisms such as plants and animals, and may damage the non- living of environmental components. Consequent, providing a legal cover for protection the ambient air from pollution, entrusted function of protection the air to the Ministry of Environment.

The main functions of the MOF in field of protection air are: to put and execute a domestic program for prevention, control, and reducing of air pollution, provide it with technical assistance and studies on air pollution problems; to lay down standards for emission of air pollutants into the atmosphere from stationary and mobile sources of air pollution such as industrial plants and automobiles or for the emission of any air pollutant into the atmosphere from any other source, to address the emissions from it, to lay down determinants of emissions; to issue down standards for air quality; to submit annual reports on the status of the ambient air and its indicators; and estimate the pollutant level at different times, to monitoring air pollution areas at dangerous times, and to give orders so that steps for the controlling, or decreasing of air pollution can be taken.

We can observe, despite there are a large number and diversity from these functions, but it didn't include other functions that have a significant and direct impact on the abatement of air pollution such as, it came without any sign to programs for education and public awareness campaigns for educating the public and officials against the dangers of air pollution and protect, preserve the quality of air. Also, it did n't include environmental training courses for staff which dealing with air pollution and how to address and control problems.

It did not mention to allocation the economic incentives to Eco-friendly projects, which seek to reduce the level of pollutants in the air. Such as, the using of solar energy in the operation of industrial plants instead of using fossil fuels. The Industrial activities monitoring of compliance of environmental laws and regulations is carried out by environmental observer as one of the employees Ministry of Environment. The 2009 Act on Conducting of Inspections of Industrial Entities defines a range of enforcement mechanisms available to the environmental inspectors.

The common range of enforcement mechanisms available and used is similar to those in some other states. However, there is no clear sequence of Implementation of enforcement mechanisms such as view logs, measuring the quality of

emission and ambient air, verification the availability of the means of control, treatment, and evaluation of its efficiency. writing inspector's report includes findings of measurements the quality of emissions and ambient air, and degree of their compliance to existing emission standards. these reports Must be submitted to MOE for appropriate action.

on the other hand, Environmental legislation does not entitle the authority environmental observer to impose administrative sanctions such as warnings, closure of the polluted plant and administrative fines. Monetary sanctions are the most significant enforcement instrument to control air pollution. The authority to impose administrative sanctions confined to the Minister of MOE or his authorized it. From our perspective, this case have advantages and disadvantages, do not lead to abuse of power by the environmental observer as advantage, and from her disadvantages it causing delay the imposition of punishment on the polluted plant and continue to pollute air because of the administrative procedures routine.

Corporate and environmental permits in Iraq are not as well developed as those in developed countries. Nevertheless, there are developments and attempts to upgrade the legal framework as evidenced by the newly enacted Environment Protection & Improvement Law No. 27 (2009)⁴². This law mandates that every industrial project must present an Environmental Impact Assessment Study prior to starting the project. Additionally, any facility that causes environmental pollution is required to maintain a log of all pollutant level measurements to be reviewed and tracked by the Ministry of Environment at its discretion. The Environment Protection & Improvement Law also states that the responsibility for environmental contamination falls not only to the entity that caused the contamination, but also to any entity that contributed to the initial causation through negligence or failure to act to prevent any continued contamination. A duty to act stems from, among other things, the transfer of ownership of a contaminated site to a new owner. The liability issue, under the law, is presumed against the new owner of the land, and it is up to the new owner to prove that he neither caused the contamination nor contributed to it through negligence or failure to act.

As for the sanctions, the administrative fines and Monetary sanctions are the most significant enforcement mechanisms for air protection. sometime, the Monetary sanctions are ineffective In deterring polluted plant from continuing to air pollution. The reasons for the ineffectiveness of these sanctions are disproportionate to the size of the air pollution damage. This sanction is imposing on all a crimes of pollution regardless of its type, due to environment laws did not determine specific sanction for each a crime of pollution, such as a crime pollution of air, water, and soil. In many times, government industrial activities refrain from paying the sanction amounts. In this regard, we agree with the view that these sanctions are not effective to control of air pollution for the reasons above, and supported by our observation of some polluting activities continue in violating environmental rules despite the imposition of financial sanctions.

The judiciary has, in recent years, enhanced enforcement efforts by states to implement environmental legislations. It plays a essential role by interpreting laws regarding to environmental issues including air issues , integrating emerging principles of law within the holistic types of sustainable development and monitoring air quality, and for ensuring effective implementation of legislation in the field of air protection. the judiciary contributes to entrench the constitutional rights of the

public to a healthy and protected environment. through a broad interpretation for elements contained in their constitutions.

And to emphasize the principles that protect air which the most important is the polluter pays principle. Further, it is necessary, the public's access to information related to the activities of the Government, founded on the and the right to know and of free speech, and enable the citizens access to the courts for the purpose of environmental litigation. But unfortunately, the situation is different in Iraq because for some reasons: first, there is no specialist environmental courts and tribunals to hear environmental matters and air issues. This situation is subjected air pollution cases to other courts Including civil and criminal courts. consequently, implementation of civil and criminal laws. In contrast, neglected the application of environmental laws regarding air pollution issues. secondly, The judiciary declined to the application of environmental laws in regarding of air pollution issues lead to losing Its significant role in consolidating and strengthening the basic environmental principles in the community. Third, routines and lengthy procedures in the courts has created a desire to leave the resort to environmental litigation and waive their environmental right to live in clean air. Thus, we can tell that the role of the judiciary in Iraq is very weak against air pollution issues.

However, at the national level, there is still a need for variety activities of the ecological linkages between MOE and other ministries, preparation of programs that have diverse benefits and enhanced public awareness raising for the environmental rules that protecting the air ambient.

Framework legislation can serve to execution in all country obligations in a co-ordinated and organized method. To allow for the necessary flexibility, it usually sets the environmental objectives, policies, principal concepts, obligations, rights and duties in regard to each law and leaves the detailed institutional arrangements for their actions to be specified in instructions.

There is a risk that this apparent Insufficient financial allocation might impede, inter alia, the development of the country's own national capacity in terms of problem-solving and institutional development. so, The Government should ensure sufficient financial resources for the rules implementation of multilateral environmental agreements and other environmental agreements' strategies that aims to control the air pollution and protection it.

CONCLUSIONS

Although, the framework environmental laws are enacted to tackle the air pollution issue, the actual enforcement of these rules remains problematic. In this context, reviews of these laws have sometimes been poorly implemented and even

subject to considerable corruption in some Institutions. the serious application of environmental laws insure all humans may enjoy their fundamental rights of life and proper Livelihood, insure the right to environment that contains a clean air. environmental laws have certain parts of it which are relatively good but needs strengthening. There are specific parts of it which are not so good and the worry was that these will probably lead to more deterioration of air quality and more air problems. So it must amend these laws to make them able to address the issues of air. It is thereby evident that the question of enforcement of environmental laws and standards, or the task of amending them, is a non-trivial procedure. it is necessary that any changes are proposed to the main framework are undertaken with the utmost care and sensitivity, and based on deeply of consulting elected representatives from Local Government, Legislatures, the Parliament, environmental experts and MOE.

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