

Environmental protection in Islamic jurisprudence and the Saudi law

Dr. Duaa Mohammed Ibrahim Badran

Associate Professor of Public Law

College of Sharia and Regulations, University of Tabuk

d.ibrahim@ut.edu.sa

Abstract:

The environment and its components are considered the vital environment in which humans live .Environment has become the concern of society as a whole .In addition, the goal of providing a safe environment for humans' livelihood has become one of the priorities of countries at the global and domestic and national levels on equal basis. Every country undertakes the appropriate measures which preserve the environment in its region and enact the necessary legislations to achieve this purpose as well. The various state agencies are considered the bodies responsible for protecting the environment in their region. The administrative authorities, for example, have the powers granted by the law to preserve the environment and deter violations. Such measures are nothing but implementation of the teachings of the true religion (Islam) and its intact rules that dealt with this crucial issue in accordance with a number of long-standing jurisprudential rules which the work of the administrative control authorities does not deviate from its content during the implementation of the environmental protection in the state. The administrative control authorities play an effective role in achieving the goal of protecting the environment. Through conducting this study, we show the means of administrative control in protecting the environment according to the Islamic Sharia and the enforce law.

Keywords: means - administrative control - environmental protection.

1. INTRODUCTION:

The sound and pure environment that if it had remained in its nature as Allah, the Almighty has created; we would not have seen this tremendous score of environmental problems. Nevertheless, the hopes and aspirations of the humans do not stop even if they have violated the nature in order to achieve their goals and objectives. In the ancient times, humans had just tried to adapt to nature only to survive, but in the modern times, they have been trying hard to influence and change it. However, this act has positive manifestations in improving humans' living conditions; it has many disadvantages, which is making nature a victim of the humans' behavior.

Environmental problems are among the problems facing the future of all mankind on equal basis. That is why the issue of preserving the environment and the means of protecting it has become the focus of global and national concern. To ensure a safe future for the coming future generations, it has become imperative to preserve the environment free from pollution with the aim of its survival and safety for the coming future generations. The right of a sound and healthy environment is one the basic human rights. Allah, the Almighty said in his Holy Quran, "Indeed, all things we created with predestination". Actually, Islam has defended the environment and emphasized its protection by the ruler, or the concerned authorities.

Islam has established rules and provisions to preserve the environment so that it remains pure and sound. The Islamic jurisprudence rules have dealt with these regulations and provisions and have codified their practice .On the other side, regulations aimed at protecting the environment and combating violating it are enacted by the competent authorities in the country in accordance with the Islamic approach with the aim to achieve the necessary protection and deterrence assumed by the competent and concerned administrative control authorities.

Problem of the research:

The problem of the research is outlined in two main sub-problems as follows:

- Determining the extent to which the legal regulation of environmental protection legislation conforms to what is established by Islamic Sharia (law).
- Determining the adequacy of the penalties stipulated in the system to deter environmental violations.

1- The basic concepts of the means of administrative control in Islamic Sharia and the law.

1-2 The concept of administrative control:

Administrative control is defined as the set of general rules imposed by a public authority on individuals throughout their normal life and controlling the practice of a specific activity with the aim of maintaining the public order. Such rules take the form of administrative decisions or organizational procedures for a specific activity, and they result in restricting individual freedoms thereof (Maher Salah Allawi,2009).

3-1 The concept of environmental administrative control:

The environmental administrative control does not deviate from the general context of administrative control. It can be defined as "the set of measures and preventive measures and restrictions imposed by the public administration on people in order to preserve the environment and protect it from all forms of pollution and deterioration through the enforce precautionary or deterrent measures that lead to preventing violating the elements of the environment and its components (Ibtsam Saeed Al-Malkawi,2008).

4- The definition of environment in the Arabic language, Islamic jurisprudence and Saudi law.

1-4-1 Defining the environment in the Arabic language.

The word “environment” in the language originated from the verb “boa” (come and reside) (Abu Al-Fadl Jamal al-Din bin Manzur, Lisan al-Arab, 1956) and is used in several meanings, including: coming and residing, and the name of it is “environment”, meaning: home and residence, and from which Allah, the Almighty granted them the status of truthfulness (Al-Sahhah by Al-Jawhari) .

And among the other definitions of environment is “taking the place, preparing it and reforming it”, and among them is the saying of Allah, the Almighty (Take homes for your people in Egypt), and among the other definitions,” reforming and preparing the place” (The Comprehensive Dictionary “Al-Qamoos Al-Moheet”, 2005) .

1-4-2 The legal concept of the environment:

The concept of the environment differs according to the vision through which the researcher looks through. The reason for this is due to their difference in their view of the environment between one who focuses on the physical side of it and considering it as the repository of natural and human resources, and another researcher who highlights its natural side, and another researcher who studies it as a set of homogeneous natural, social and cultural factors.

The first article of the Environmental Law in the Kingdom of Saudi Arabia defines the environment as everything that surrounds a person, animal, plant or any living organism, including water, air, land, soil, organisms of biological diversity, gases in the atmosphere and water areas, and what these areas contain in terms of inanimate objects and various forms of energy, environmental habitats, natural processes and their interactions among themselves (Environmental system, 1441 AH).

The research addresses the issue of protecting the environment from pollution and harmful environmental impacts through the rules of Islamic jurisprudence and the enforce system. Pollution, as defined by the Environmental Protection Law in Article Seven, is “any change in the environmental characteristics that may lead, directly or indirectly, to harming living organisms or installations, or affecting humans’ exercising their normal life.”

1-4-3 The concept of the environment in Islamic Sharia law.

The word “environment” was not mentioned in the Holy Qur’an or in the Prophet’s Sunnah verbally, but its connotation was always linked to the word “earth” in the Holy Qur’an. Qur’an used the term “earth” instead of the word “environment” to denote the whereabouts or the place in which humans live

Allah, the Almighty said in his Holy Qur’an :

(And when it was told to them, do not spoil on earth, they said, we are reformers) (9).

- (And the earth expelled its mankind and the jinn) .

- (He created you from the Earth and settled you in it) .

The concept of the environment in Islam is characterized by its comprehensiveness, meaning the earth, the sky, the mountains, and the creatures therein.

Allah, the Almighty has mastered the creation of this environment in terms of quantity, quality and function, so you do not see in its making the least difference.

Allah, the Almighty said (The making of Allah who mastered everything) .

From the Islamic perspective, the natural environment is characterized with several features, including the following:

Functional: where the environment has been harnessed its resources to meet the interests of the humans and meet their needs, so the earth has been well-prepared for the humans, Allah Almighty said (And the earth We have spread out (like a carpet); set thereon mountains firm and immovable; and produced therein all kinds of things in due balance And We have provided therein means of subsistence, for you and for those for whose sustenance ye are not responsible) .

Interactive: as the elements of the environment have been made to interact with each other constantly, according to a tight balance in which the divine power is manifested. As a matter of fact, each element is affected by its counterpart and is influenced by it according to the laws and Sunnah of Allah , the Almighty in its universe , and thus the environmental integration remains preserved.

Aesthetic: Allah, the Almighty has created the natural resources of various colors and shapes to bring joy to the human soul.

Allah, the Almighty said (Do you not see that Allah sends down rain from the sky, and We produce thereby fruits of varying colors, And in the mountains are tracts, white and red of varying shades and [some] extremely black, and created humans and animals of various nature) .

2- ENVIRONMENTAL PROTECTION IN ISLAMIC SHARIA LAW:

Islamic Sharia law has paid great attention to the environment in terms of protecting and preserving it from the damages that may befall it. With the aim to achieve this purpose, a number of strict rules and provisions necessary to prevent abuse or aggression on the environment have been put in place in order to fully benefit from it and benefit from its resources thereof.

The idea of protecting the environment in Islamic Sharia law is based on religious commitment, which goes beyond the idea of natural commitment in civil law, where religious commitment includes both the two elements of indebtedness and liability, and not only indebtedness, similar to the natural commitment, where the duty to preserve the environment is considered a commitment of every sane person and his responsibility arises if he violates the same. Harming the environment is forbidden and punishable in this world and the hereafter as well.

The regulations in the Kingdom of Saudi Arabia have ensured the achievement of the goal of environmental protection, as Article 2 of the Environmental Protection Law issued in the year 1442 AH / 2020 AD stipulated that “the system aims to protect, develop and sustain the environment, commit to environmental principles, and regulate the environment sector, activities and services related therewith.”

It is clear from this that the goal of the system is to achieve what the Islamic Sharia law aspires for in its entirety by setting controls and mechanisms that achieve this goal thereof.

The Quranic verses have been clear in achieving environmental protection. An example of it is the verse, "Do not spoil the earth after it is reformed, and call upon Him in fear and greed, for the mercy of Allah is close to the benefactors " and Allah , the Almighty says " Mischief has appeared on land and sea because of (the meed) that the hands of men have earned, that (Allah) may give them a taste of some of their deeds: in order that they may turn back (from Evil) " , and the emergence of corruption and mischief on land and at sea is a form of human violation of the surrounding environment. Corruption, mischief and fatal changes have occurred only because of the aggression on the environment.

It is evident from Qur'an texts the position given by Islamic legislation to protect the environment, being a source of life and for the smooth functioning of life affairs for human beings and all other creatures. We find that Allah, the Almighty has stipulated the general rules and left the method of achieving the goal of protecting the environment to the regulations enacted by the competent authorities in the state.

It can be said that Qur'an takes two paths in preserving the environment:

The several controls that Qur'an has placed on humans' behavior towards the components of the environment, prohibiting corruption on the earth, destroying humans and plants, forbidding extravagance, and calling for mediation and moderation in all their entire conditions, neither excess nor neglect.

- Presenting the aesthetic dimension of the components of the environment and urging the humans to observe this pure and beautiful creation, and to ensure its continuation, development, and preservation, as well as ensuring that Allah, the Almighty vowed to preserve the species and lineage of all creatures and all that is on the surface of the earth until Allah, the Almighty inherits the earth and those on it.

There is no doubt that the environment, its issues, its management and protection have attracted the attention of the entire world. Many countries of the world are facing problems of decline and diminishing reserves of the natural resources. In addition, the problems of environmental pollution and the risk of extinction for many organisms have emerged, which makes it imperative for countries to search for fundamental solutions to protect that environment through working on finding effective legal protection. There is no doubt that the administrative control has an effective role in this regard.

The entire world has been alerted to this imminent danger and is actively seeking, through global climate conventions as well as the internal legislation, to protect the environment and restore it to the status it had been or to stop the aggression on it at least.

3-GENERAL JURISPRUDENTIAL RULES RELATED TO ENVIRONMENTAL PROTECTION:

The Islamic Sharia law, with its rules, branches, purposes, and texts have all joined forces in working to protect the environment, conserve its resources by developing them, and curb their misuse and depletion. Such rules that are related to the protection of the environment are summarized as follows:

3 - 1 Removal of damage:

This rule is considered a basis for preventing a harmful act from oneself and others, and removing it before it occurs, removing its effects, or mitigating them after their occurrence. In this regard we find the prophet's Hadeeth which was narrated by Ibn Abbas - may Allah be pleased with them - that the Messenger of Allah (PBUH) said, "**There should be neither harm nor malice**" (Al-Mughni, 1968).

This rule plays a prominent role in protecting the environment and in terms of the total rules and legislations that are built on it. All that results in harm or damage to the components of the environment such as soil, water, plants, animals and air is forbidden according to the Islamic Sharia law. In addition, everything that leads to the loss of the ecological balance is forbidden and its removal is a must as it is considered a form of harm. The rule stipulates that the damage or harm is removed.

Ibn Qudamah said: A man has no way to dispose of his property in a way that harms his neighbor, such as building a bath in between the houses, or opening a bakery among spice sellers shops, or building a blacksmith's shop which may shake the walls or destroy them, or digging a well next to the well of his neighbor that attracts its water. This is also applied to anything that may cause the environmental damage, as environment is a common property of everyone in the society (Durar al-Hakam, 1991).

Dorer Al-Hokam book (the pearls of the rulers) mentioned that, if someone builds a sewage drain well and this caused the spoiling of the water of that land, then this damage is removed, and if that harm cannot be removed, the sewage drain should be buried by filling it.

Likewise, if the water of the sewage drain created by someone is near a stream of water and reaches the water, and represents a gross damage, and it is not possible to remove the damage in a way other than the filling, then that drain is buried by filling it (Al-Moafaqat by Al-Shatbi, 2004).

3-2 Preventing harm takes precedence over bringing interests:

- If there is a conflict between a harm and interest, the harm is often removed, because the legislator is more concerned with the prohibition of harm than with achieving interests. Among the applications of this rule in protecting the environment is the prohibition of establishing factories in the residential areas. However, there is interest behind the

establishment of such factories, but there is harm befalling the residents adjacent to these factories, thus preventing their establishment is aimed to preserve the environment.

3 -3 Committing the least of two harms: The severer harm is removed and replaced by the lesser harm. One of the applications of this rule in protecting the environment is that harmful waste, for example, is either buried in populated areas or in the desert, and both are harmful except that burying them in the desert is less harmful.

4 –CONSIDERING THE PUBLIC INTEREST AHEAD OF THE PRIVATE INTEREST:

Some views expressed this rule by saying, "the person shall bear the special harm in order to remove the public harm." (Similarities and analogues by Ibn Najim, 1999).

Among the applications of this rule in the field of environmental protection is: preventing a person from disposing of his property in a way that causes harm to others, and also restricting the building on agricultural lands by the rulers or the head of the state. However the person has the freedom to dispose of his property, the aggression on the agricultural plot harms the public, so the public interest is placed ahead of the individual's interest.

Protecting the environment is one of the purposes of preserving the five necessities, which are as follows: preservation of religion, self-preservation, money preservation, mind preservation, and preservation of children.

5- CHARACTERISTICS OF ENVIRONMENTAL ADMINISTRATIVE CONTROL:

Environmental administrative control has a set of characteristics that distinguish it from other management activities and can be summarized as follows:

-The unilateral characteristic (a one-sided procedure):

Environmental administrative control in all cases is a procedure undertaken by the administrative authority unilaterally, and through which it aims to maintain public order. The individual has only to comply with the set of procedures imposed by the administration (Ammar Boudiaf, 2007) .

- The preventive characteristic: Administrative control is characterized by a preventive characteristic. It wards off and removes risks from individuals, and the preventive characteristic is the basic principle of the environmental administrative control. For example, the administration, when imposing special procedures to approve the practice of some activities, it is meant for the purpose of protecting the safety of persons and protecting them from every danger that may befall them and can be a result of this utilization (Ammar Boudiaf, 2007).

In addition to empowering the administrative control authorities to intervene in advance in the individual activities, and to take the necessary precautions to protect society from the dangers that may result from the unsafe practice of the individual's activity, which the legislator assesses its danger to the environment.

- **The discretionary characteristic:** the administration has the discretionary power in practicing control measures, in other words, when the administrative authorities estimate that an act will result in a danger, and they must intervene before it occurs in order to maintain the public order. The administrative control is characterized by the characteristic of prudence and risk assessment (Salah El-Din Fawzy,2003).

6- MEANS OF PROTECTING THE ENVIRONMENT IN THE ISLAMIC JURISPRUDENCE AND SYSTEM:

The Muslim jurists have been concerned with defining the rules for protecting and preserving the environment from any damage or harm that could inflict on it and affect it, so they set the rules and provisions necessary to prevent abuse or aggression on it with the aim to benefit from it and its various resources.

Administrative control authorities, according to the laws in force, have many means that assist them in conducting their tasks in protecting the environment. Administrative control represents the best means to protect the elements of the environment, and this is represented in its supervisory and preventive role. In this regard, administrative control means that the administration is entitled to impose restrictions on individuals' freedoms with the intention of monitoring the public order in society (Salah Eldin Fawzi,2002).The administrative control aims to maintain public safety and overall public health, such as prohibiting any action that would affect natural reserves, such as preventing hunting , killing or causing whatsoever harm, and these means are as follows:

6-1 Means of protecting the environment in Islamic jurisprudence:

Islam has been concerned with protecting the environment and preserving it from any damage or harm that could inflict it and negatively affect it. To this end, the Islamic Sharia has adopted an integrated approach to preserving the environment. Therefore, Islamic Sharia law has stipulated the provisions necessary to prevent abuse or aggression to it, with the aim to benefit people from it and its various resources, through the Holy Qur'an and the Sunnah of the Prophet (PBUH).Islamic Sharia law has adopted certain means to protect the environment, including preventive and therapeutic ones, they are represented in the following:

6-1-1 Prohibition of spoiling its elements:

Allah, the Almighty said (So eat and drink of the sustenance provided by Allah, and do neither evil nor mischief on the (face of the) earth.).

The significance of the verse:

The verse expresses the prohibition of corruption and mischief, "Do not corrupt" and this word carries several meanings, including "Do not be satisfied with evil, do not do, and do not insist on corrupting and mischief (Abu Elqassim Al-Husein ,1997). Therefore, the prohibition on corruption on earth is forbidden to act and to approve of it and to forbid persisting on doing it (Ibn Ashoor,1997).

As Allah, the Almighty said "Mischief has appeared on land and sea because of (the meed) that the hands of men have earned, that (Allah) may give them a taste of some of their deeds: in order that they may turn back (from Evil)".

The significance of the verse:

The emergence and spread of corruption on land and at sea is due to the bad deeds of people (Shehab Eldin Al-Alosi).

6-1-2 Removal of harm from the road:

The Messenger of Allah (PBUH) said, “Faith is based on seventy, or sixty pillars, the highest of it is the saying there is no God but Allah, and the least of which is the removal of harm from the road ... etc.” (Sahih Muslim).

The significance of the hadith:

The prophet of Allah (PBUH) shows that removing harm from the path of the people is a fundamental part of faith. Faith is not only a high level of the ranks of the religion, but it is also the foundation upon which it is built, and this significantly and categorically indicates that protecting the environment in Islam is part of the core of faith and its requirements, i.e. Removal of harm from the path of people is an example.

6-1-3 Determining the principle of public ownership of the public interest on which the life of the public depends:

The prophet of Allah (PBUH), said: “Muslims are partners in three things, they are: water, pasture and fire, and their price is forbidden (Sonin Abi Dawood).

The significance of the hadith:

The hadith stated that what was mentioned such as water, herbs, and what was used to kindle the fire, which was in the public domain, everyone is entitled to benefit from, and it is not permissible for anyone to take possession of it for himself alone, or withhold it from others. Therefore, it is everyone's responsibility to preserve them, and just as they benefit from them equally, so they are equal in preserving it.

6-1-4 Prohibition of spoiling the environment:

• The prophet of Allah (PBUH) said, “Beware of the two cursed people”, they said,“ who are they? (Sahih Muslim, p.226).The prophet of Allah (PBUH) answered them “they are persons who cause damage to people’s path and who oppress people”.

Al-Khattabi said: What is meant by the two curses are the two things that bring curses for people or the reason for cursing people who transgress or harm other people (Al-Menhag, p.161).

7- ISLAMIC SHARIA LAW ADDRESSING OF THE CASES OF AGGRESSION ON THE ENVIRONMENT:

Islam has dealt with the problem of protecting the environment with guidance and counseling at times, rewarding at other times, and then eventually punishment. Accordingly, there is a responsibility for those who harm the environment or cause its pollution in a way that harms others. In this regard, Sharia has prescribed other penalties for causing or inflicting pollution or damage of the environment or any of its components other than the guarantee penalty or monetary compensation; such as the physical punishments comprising; reprimand, warning, beating and imprisonment. The ruler inflicts such physical punishment on anyone who commits a violation or an act that damages any of the environmental resources; such as

cutting trees, or anything else, as well as polluting the air by factory smoke, as the grave damage it leads to that outweighs the interest that comes from them. Then the state may impose a deterrent discretionary punishment, whether financial or physical, or closing the factory and suspending its work, according to what the competent judicial body sees in the state. The state is entitled to prohibiting the use of materials and tools that pollute the environment, as well as prohibiting the workforce that provide its polluted and unclean services, as well as prohibiting chimneys of furnaces and factories in residential places that pollute the environment and harm the population, and preventing slaughtering in the roads, which requires the responsibility of disposing of waste represented in the medical and solid materials in a healthy way that ensures the safety of the environment and preserving it free from pollution. In addition, forming a body or agency that monitors and preserves everything related to the environment, and holds violators accountable for their harmful actions.

It should be noted that the assessment and determination of the penalty in relation to the aggression on the environment is determined according to the type of violation and the state of the violator with the aim to take care of the public interests, provided that the application of such penalties is conditioned to be a gradual punishment from the lightest to the severest, in order to achieve deterrence and discipline. Once the lightest punishment is deterrent and sufficient to achieve discipline and fulfills the intention thereof, then there is no need to apply the severest punishment; because the goal therewith is to protect the environment, not to punish people (Aggravating and mitigating circumstances in the discretionary penalty in Islamic jurisprudence,2006).

8- MEANS OF PROTECTING THE ENVIRONMENT ACCORDING TO THE SAUDI LAW:

In order to perform their duties in protecting the environment, the administrative control authorities have many preventive measures stipulated by the law, as one of the effective and serious administrative methods to protect the public order from any threat negatively affecting the safety of the environment. Such means are merely general and objective abstract rules issued by the competent executive authority with the aim of preserving the public order with its elements (traditional and non-traditional). Control systems are considered one of the most effective means of administrative control to preserve the public order. Through them, the administrative control authorities set general and abstract rules such as traffic regulations and regulations for using and travelling on the public roads (Nawaf Kanan,2006).

8-1 Means of protecting the general administrative environment:

Therefrom, administrative control systems are considered objectively as laws, but in terms of form they are control systems due to the necessity of their issuance by the executive authority. These regulations have many forms, including what is intended to reconcile the public order with the exercise of public freedoms that are guaranteed to people, as is the case in what is issued by the administrative authorities to organize the practice of a certain activity with the aim of protecting the environment, and this organization has certain forms, including the following: (Husam Morsi,2011).

• **Licensing:** It is considered a restriction on individuals when exercising their freedoms, in other words, it is a previous permission issued by the administrative authority to practice a certain activity. Among the objectives for which licensing was decided before practicing a specific activity is to legalize and codify the actions practiced by the individuals and hold them accountable for the harm that shall result from their actions (Husam Morsi, 2011, p.393).

• **Notification:**

It means the commitment of individuals to inform the administration of their desire to practice a certain activity in order to conduct the necessary requirements and procedures which are imperative to preserve the environment (Rasha Abelraziq, 2001, p.383). The procedure may be taken by the administrative authorities in the form of individual decisions or direct implementation.

Individual decisions:

The individual decisions in the field of environmental protection mean those decisions or orders issued by the administrative control authorities and pertaining to a specific individual or group of individuals with the aim of preserving the public environmental system, such as the order issued to refrain from issuing licenses for specific facilities because they pollute the environment (Mohamed Al-Azmi, 2009, p.46)

Compulsory direct implementation:

Direct implementation is one of the most dangerous means of the administrative control on the rights and freedoms of individuals, due to its cruel and powerful nature, because it takes the form of a physical act, which is in the form of a legal act too, and is represented in forcing the violators to implement individual decisions by the control authorities with the aim to preserve the public order. Since the compulsory implementation is an exceptional measure on the general basis, thus jurisprudence and administrative judiciary paid considerable attention to it and restricted the right of the administration to apply it to specific cases that may not be expanded (Ahmed Al-Shaibani, 2005, p.88). Such cases are as follows:

- There is an explicit legal text that allows the resort to direct, compulsory implementation.
- Individuals refraining from implementing the administrative control orders.
- The state of necessity and urgency, in other words, if there is a threat to the public order and this threat of harm cannot be avoided.

- Administrative penalties:

They are procedures through which the administration aims to ward off the risk of disturbing the public order according to the legislative texts. They often affect the financial and moral interests of the person violating the provisions of the law.

The administrative penalties are of two types:

Despite the danger of this type of means, it is necessary to protect the environment in cases where normal situations fail to achieve the same.

8-1-2 Inspection for environmental violations:

Saudi law, in Article 36 of the Environmental Protection Law of 1441 AH / 2020 AD, granted the right to control inspectors authorized whereby an issued decision of the competent minister or the competent authority to enter facilities, write offenses and take samples. The authorized inspector is also entitled to exercise the authority to seize the tools used in the environmental violations. In this regard, the Saudi law forbade obstructing the work of the environmental inspector and made this action a violation of the system.

8-2 Assisting authorities for the environmental administrative control authority:

The Ministry of the Interior is the main assistant to the environmental control inspectors, according to the text of Article 37 of the Environmental Protection Law. The Ministry of the Interior has been assigned a number of tasks that are summarized in assuming the security monitoring with the aim to achieve the environmental commitment. The system has made this task a precautionary measure to prevent the occurrence of environmental violations.

8-2-1 Support for environmental inspectors:

In this regard, the security agencies shall support the environmental inspectors if requested, in order not to impede their work in order to achieve the goal of protecting the environment.

8-2-2 The security agencies in some cases only arrest the perpetrators of the violation and refer them to the concerned authorities, according to the second paragraph of Article 37 of the Environmental Protection Law 1441 AH. However, this paragraph is shrouded in ambiguity as it decides the right to detecting the violations and violators and referring them to the concerned authorities and it did not clarify whether this is in implementation of the requests of the concerned authorities to protect the environment, or the concerned authorities in charge of the control process on their own assume the detection of violations whereby the legal authority they have in this regard.

A score of problems related to control procedures and the type of violation committed should have been decided whether or not it is an environmental violation by a competent authority concerned with protecting the environment.

9 – PENALTIES:

The Environmental Protection Law includes the penalties that are applied in the event of a violation. It is noted that the law only includes the penalties for fines, suspension or cancellation of the license as well as publishing a summary of judgments at the expense of the violator.

Where the law decides the fine penalty according to a schedule issued by the competent minister and the penalty is graded from the lowest to the highest according to the rules that include penalties for discretionary crimes in Islamic jurisprudence, because environmental violations are included among the discretionary crimes. Thus the issue of penalties prescribed

in the Saudi Environmental Protection Law does not raise any problem from the legislative aspect.

10.CONCLUSION:

There are a score of conclusions that can be drawn from this research, they are as follows:

- Islamic law has paid the environment a great attention and concern, through an integrated system of directives, legislation and principles with the aim of protecting the environment in all its forms and components. It has set controls that prevent committing aggression on it, wasting, or depleting its resources.
- The Islamic Sharia law prohibits all environmental violations, and everything that harms the environment or one of its components, and considers those who commit such violations entitled to the appropriate discretionary punishment for their aggression on the environment, for the perpetrator, as per the nature of this violation.
- The environmental protection system graded the penalties according to schedules issued by the competent minister who set the general rules and guidelines for the punishment of violators.
- The stipulated legal regulation concerned with protecting the environment is compatible with what is required by the legal provisions and jurisprudential rules and the idea of discretion in environmental violations, especially with the way of regulating penalties for environmental violations.
- The gradual punishment becomes severer, and the penalties become severer, with the increase danger in violations of the environmental system, and there may be severer penalties at a later future stage.
- The penalties prescribed in the Saudi Environmental Protection Law are not that weak, yet they do not achieve the necessary level of deterrence, and there should be severer penalties in the near future.

11.REFERENCES:

- First: The Holy Quran.

Second: Books of Tafsir (Interpretation):

- 1- Editing and Enlightenment (Al-Tahrir wltanweer) by Ibn Ashour, Sahnoun House (Dar Sahnoun) for Publishing and Distribution - Tunisia, 1997 AD
- 2- The scholar Shihab Al-Din Al-Alousi Al-Baghdadi (d. 1270) The Spirit of Meanings (Rooh Al-Maanai) in the Interpretation of the Holy Qur'an and the Seven Matanids(Al-Saa Al-Mathani), House of Revival of Arab Heritage (Beit Ehiyaa Al-Torath) , Beirut, without a year of publication, part 21.
- 3- Mawatih al-Ghayb by Al-Razi, House of Revival of Arab Heritage(Beit Ehiyaa Al-Torath, Beirut, third edition, 1420 AH

Third: Books of the Prophet's Sunnah and their interpretations:

- 1- Sunan Ibn Majah, Abi Abdullah Muhammad Ibn Yazid Al-Qazwini (209-273 AH) (House of Knowledge) Al Maarif Library for Publishing and Distribution.
- 2- Sunan Abi Dawood, Edited by: Muhammad Mohiuddin Abdul Hamid, Publisher: Modern Library, Saida - Beirut.
- 3- Sahih Muslim by Imam Muslim bin Al-Hajjaj bin Muslim Al-Qushairy Al-Nisaburi, Edited by: Nazar bin Muhammad Al-Faryabi Abu Qutaiba, Dar Taibah, 1427 AH - 2006 AD
- 4- Musnad of Imam Ahmad bin Hanbal, the author: Abu Abdullah Ahmad bin Muhammad bin Hanbal bin Hilal bin Asad al-Shaybani (deceased: 241 AH). Edited by: Shuaib al-Arna`ut - Adel Murshid, and others supervised by: Dr. Abdullah bin Abdul Mohsen al-Turki Publisher: Establishment of Resala (Moaasisat Al-Resalah) , First Edition: 2001 A.D. 1421.
- 5- Al-Manhaj fi Sharh Sahih Muslim bin Al-Hajj, Imam Al-Nawawi (d.676), House of International Ideas (Beit Al-Afkar Al-Dawliyah), Amman without a year of publication, Part 3.

Fourth: Arabic language books:

- 1- Al-Sahhah by Al-Jawhari Al-Sahah Taj of the Al-Language and Sahah Al-Arabiya by Ismail bin Hammad Al-Jawhary, Edited by Ahmed Abdel-Ghafour Attar, Part One, Dar Al-Alam for Millions(House of Science for Millions) , Beirut.
- 2- The Comprehensive Dictionary (Al-Qamoos Al-Moheet) by Fayrouz Abadi Majd al-Din Abu Taher Muhammad Ibn Ya`qub al-Fayrouzabadi (deceased: 817 AH "Al-Resala Foundation for Printing, Publishing and Distribution, Beirut - Lebanon , Eighth Edition:, 1426 AH - 2005 AD.
- 3- Abu Al-Fadl Jamal al-Din bin Manzur, Lisan al-Arab(Tongue of Arabs), Part VIII, 3rd Edition, Arab Heritage House(dar Al-Torath Al-Arabi), Beirut, 1956 .
- 4- Vocabulary in Gharib Al-Qur'an, Abu al-Qasim al-Husayn Ibn Muhammad, Edited by Muhammad Sayed Kilani, Dar al-Maarifah, Lebanon, Part 1, without a year of publication.

Fifth: books of Fiqh (Jurisprudence):

- 1-Al-Mughni, a brief explanation of al-Kharqi, by Ibn Qudama 4/388, Cairo Library, 1388 AH, 1968 AD.

Sixth: books of jurisprudential rules.

- 1- Durar al-Hakam, Explanation of Al-Ahkam Magazine, Ali Haydar Khawaja Amin Effendi (deceased: 1353 AH) Arabization: Fahmi Al-Husseini Publisher: Dar Al-Jeel First Edition, 1411 AH – 1991 AD.
- 2 - Similarities and analogues by Al-Sobky Taj al-Din Abd Al-Wahhab Bin Taqi Al-Din Al-Subki (deceased in 771 AH), Dar Al-Kutub Al-Ilmiyyah(House of Scientific Books), First Edition 1411 AH - 1991 AD.

3- Similarities and analogues of al-Suyuti, Abdel-Rahman Bin Abi Bakr, Jalal Al-Din Al-Suyuti (deceased: 911 AH) Publisher: Dar Al-Kutub al-'Ilmiyya, 1st Edition, 1411 AH -1990 CE.

4- Similarities and analogues by Ibn Najim Al-Masri Zain al-Din Bin Ibrahim Bin Muhammad, known as Ibn Najim Al-Masri (deceased: 970 AH), Dar al-Kutub al-'Ilmiyya, Beirut – First Edition, Lebanon, 1419 AH - 1999 AD.

Books of Principles and Objectives:

1- (Al-Moafaqat)The approvals in the Fundamentals of Sharia by Al-Shatby Ibrahim Bin Musa Al-Lakhmi Al-Shatibi , Edited by: Abdullah Deraz Muhammad , Publisher: Dar Al-Kutub Al-'Ilmiyya; Publication year: 1425-2004.

Law Books:

1- Dr. Ibsam Saeed Al-Malkawi, The Crime of Environmental Pollution, 1st Edition, House of Culture for Publishing and Distribution, Amman, 2008.

2- Dr. Ahmed Abdulaziz Al-Shaibani, Responsibility of the Administration for Administrative Control in Normal Conditions, PhD Thesis, College of Law, Baghdad, 2005 AD.

3- Dr. Ahmed Abdul Karim Salama, Environmental Protection in Islamic Jurisprudence, Ahmadiyya Magazine, 1st Edition.

4- Dr.

Elsayed Abdel Ati Yassin, Man and Knowledge, Dar Al-Marefa Al-Gmaei (University Knowledge House), Alexandria, 1999 AD.

5- Dr. Tawfiq Shehata, Administrative Law, Part 1, 1st Edition, Egyptian Universities Publishing House.

6- Dr. Hussam Morsi, Administration Authority in the Field of Administrative Control, A comparative Study, University Thought House, Alexandria, 2011 AD.

7- Dr. Rasha Abdel Razek Jassim, Administrative Control Bodies and their Role in Environmental Protection, A research published in the Journal of the Faculty of Law, Nahrain University, Volume Sixteen, 2nd Edition, 2014.

8- Dr. Salah El-Din Fawzy, The Simplified in Administrative Law, Dar Al-Nahda Al-Arabiyya, Cairo 2002-2003.

9- Dr. Ammar Boudiaf , Al Wajeez in Administrative Law, 2nd Edition, Bridges (Josor)for Publishing and Distribution, Algeria, 2007.

10- Dr. Maged Ragheb El- Helou, Environmental Protection Law in the Light of Sharia, Knowledge Foundation Alexandria, 2002 AD.

11- Dr. Maher Salah Allawi Al-Jubouri, Mediator in Law, Ibn Al-Atheer House for Printing and Publishing, 2009 AD.

12- Dr. Muhammad Abdo Manahi Al-Azmi, Administrative Protection of the Environment, Dar Al-Nahda Al-Arabiyya, 2009 AD.

13- Dr. Mona Kassem, Environmental Pollution and Economic Development, The Egyptian House, 3rd Edition, 1994 AD.

14- Dr. Nawaf Kanaan, Administrative Law, House of Culture for Publishing and Distribution, Amman, 2006.

Laws and Regulations:

Environmental system issued by Royal Decree No. (M / 165) dated 19/1/1441 AH.