

Tracing Environmental Law Principles within the Qatari Legal System¹

Prof. Abdelnaser Zeyad Hayajneh

Advisory Board Member - Centre for Law and Development -Professor of Law- College of Law
Qatar University
abdelnaser.com@qu.edu.qa

Dr. Hassan Elbarrawy

Associate Dean for Academic Affairs, College of Law - Qatar University
h-elbarrawy@qu.edu.qa

Dr. Yassin Elshazly

Assistant Professor – College of Law - Qatar University
yassin.elshazly@qu.edu.qa

Dr. Tarek Rashid

Assistant Professor – College of Law - Qatar University
tr.gomaa@qu.edu.qa

Abstract

In the era of environmental revolution, law becomes relevant. The last few decades witnessed huge environmental concerns, at a global level, international conferences, declarations, and international treaties has been conducted, and at the national level, special environmental laws, constitutional provisions, bylaws judicial and administrative practices have been introduced. The State of Qatar was not an exception; in the last two decades Qatar introduced itself as a merging player in many aspects of global concern including environmental movement.

This study aims at tracing and analysing environmental law principles within the Qatari legal frameworks. In so doing, the study will provide the readers and the law makers with a brief view on the adoption and the implementation of these principles in the Qatari legal system, and the impact of these principle in the Qatari environmental management policy both at the domestic and international levels.

This study is the first of its kind in the State of Qatar, and as Qatar is the hosting nation of the FIFA 2022 World Cup with a promise to organize sustainable tournament, the study will help defining and / or adopting and introducing environmental law principles within the Qatari legal frameworks.

Key words: (Environmental Law principles, Qatari Environmental Law, Protection of the Environment, Qatar 2022 FIFA World Cup)

Introduction

Qatari's transformation into a modern state is going on at extremely high rate; this process of development is comprehensive and rational. Environmental considerations and concerns are adequately

¹This research is conducted as part of a National Priority Research Programme “NPRP” research project funded by the Qatar National Research Fund “QNRF”. The project title is “The Legal framework for Construction Contracts: Challenges and Aspirations in light of the Qatar FIFA World Cup 2022”. Project No: (NPRP 8-999-5-136). Thanks, and gratitude's are due to QNRF and Qatar University for the generous support.

presented and rationally addressed by the Qatari decision makers at the political, economic, and legislative levels².

During the process of transformation, environment was one of the Qatari high priority topics; along with *socio-economics and political aspects*. *The fact that Qatar's economy depends heavily on oil and gas is to be highlighted while setting up the country's environmental policy. Moreover, Qatar's geographical and climatic circumstances present more challenges for Qatar's environmental protection efforts.*

The faith and wealth of Qatar make the mission of environmental protection possible and fruitful. The government of Qatar recognizes the fact that it must balance the country's economic growth and its limited resources³. It also recognizes the environmental challenges posed by the hydrocarbon industry that drives the country's economy⁴.

The State of Qatar seeks to preserve and protect its unique environment and nurture the abundance of nature granted by God. Accordingly, development will be carried out with responsibility and respect, balancing the needs of economic growth and social development with the conditions for environmental protection⁵.

Objectives of the study

The study's objectives are mainly to explore to what extent Qatar legal frameworks recognize, adopt, and implement principles of environmental law, and to draw some remarks and recommendations to the Qatari legislative, judicial and administrative authorities to maintain and enhance environmental good governance.

The significance of the study and its methodology

The study is the first of its kind to be conducted under the Qatari jurisdiction, with a very few references; it will depend on raw materials such as the permanent constitution of Qatar, Qatari Environmental Protection Law and its executive list and certain Qatari laws relevant to the environment in the State of Qatar. It will apply the descriptive and sometimes analytical approach while reviewing the content of the Qatari's legal instruments. Including Qatar National Vision 2030⁶. According to which environmental pillar will be increasingly important as the State of Qatar is forced to deal with local environmental issues, such as the impact of diminishing water and hydrocarbon resources, and the effects of pollution and environmental degradation, as well as international environmental issues such as the potential impact of global warming on water levels in Qatar and its impact on coastal urban development.

² "The welfare of our children and of the future generations demands that we use our resource-wealth wisely. Qatar must continue to invest in its people so that all can participate fully in economic, social, and political life. Qatar must invest too in world class infrastructure to create a dynamic and more diversified economy in which the private sector plays a prominent role. This requires continuous improvements in the efficiency, transparency and accountability of government agencies". His Highness the Amir Sheikh Tamim bin Hamad Al Thani, Qatar National Vision 2030, available online at: http://www.mdps.gov.qa/en/qnv/Documents/QNV2030_English_v2.pdf

³ "...development will be carried out with responsibility and respect, balancing the needs of economic growth and social development with the conditions for environmental protection..." Qatar National Vision 2030, Available online at: http://www.mdps.gov.qa/en/qnv/Documents/QNV2030_English_v2.pdf

⁴ HUKOOMI, Qatar e-Government official website, Environment and natural resources section, <http://portal.www.gov.qa/wps/portal/topics/Environment+and+Natural+Resources/Environmental+Preservation>

⁵ Qatar National Vision 2030, Available online at: http://www.mdps.gov.qa/en/qnv/Documents/QNV2030_English_v2.pdf

⁶ In July 2008 Qatar launched its future national vision 2030, the document received great deal of attention by governmental departments, decision makers and researchers; Qatar National vision 2030 is not meant to be a legal document, however, it has considerable importance since it provides for future action plan for Qatar.

The mere fact that the State of Qatar is going to host the FIFA World Cup 2022 provides the study of a major advantage and merit; since the Qatari promise to organize an environmentally friendly tournament. In its preparations to Qatar World Cup 2022, sustainability of the tournament is a major consideration for all state departments and stakeholders. The constructions of the world cup stadiums, related infrastructures and facilities are conducted according to high environmental and sustainable standards.

Main Environmental Law Principles

Environmental law is relatively a new branch of law which aims at protecting the environment and rationalize human's activities to preserve natural resources and maintain balance among the components of the environment to the benefit of present and future generations. This branch of law witnessed a rapid evolution during the last few decades; it is now a well-established body of law encompasses of certain principles and themes. The main principles of environmental law are: Sustainable development, Precautionary principle, Polluter pays principle, Environmental impact assessment, Public participation and Common but differentiated responsibilities⁷. This study will trace these principles within the Qatari legal framework to highlight the adoption, presence, and the implementation of these principles under the Qatari's legal instruments.

It is worth mentioning that, the State of Qatar is a state party to many International Environmental conventions, Agreement, Protocol, some of these conventions include principles of environmental law⁸.

⁷These Principles are derived from the most important international environmental treaties and declarations, for more, see, Abdelnaser Hayajneh, "Environmental Law, the general theory with explanation of environmental legislation", 2012, Dar Al- Thaqafah, Amman, Jordan., and also, Abdelnaser Hayajneh, 2012, "Legal Protection for the Environment in Jordan and the United Arab Emirates: Comparative Outline", British Journal of Humanities and Social Sciences, November 2012, Vol. 7 (2), pp 64-87, available online at: [http://www.ajournal.co.uk/HSPdfs/HSvolume7\(2\)/HSVol.7%20\(2\)%20Article%206.pdf](http://www.ajournal.co.uk/HSPdfs/HSvolume7(2)/HSVol.7%20(2)%20Article%206.pdf)

⁸The following are most popular international conventions;

- 1954 International Convention for Prevention of Pollution of the Sea by Oil;
- 1960 International Convention for Safety of Life at Sea;
- 1973 International Convention for Prevention of Accidents at Sea;
- 1978 Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution;
- 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- 1991 The Arab Declaration on Environment and Development;
- 1992 Agenda 21 and the Rio Declaration on Environment and Development;
- 1992 Protocol to the International Convention on Civil Liability for Oil Pollution Damage, ratified by the State of Qatar in Decree No. 33 of 1993;
- 1993 Convention on Biological Diversity (Rio de Janeiro);
- 1996 UN Framework Convention on Climatic Change;
- 1996 Montreal Protocol and its Amendments and the UN Framework Convention on Climate Change;
- 1997 Kyoto Protocol;
- 1999 International Agreement to Combat Desertification in Countries Suffering from Bad Drought or Desertification, particularly in Africa;
- 2001 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). See Qatar Legal Portal, <http://www.almeezan.qa/AgreementsBySubject.aspx>

Sustainable development

Sustainable development is defined as a process of meeting human development goals while sustaining the ability of natural systems to continue to provide the natural resources and ecosystem services upon which the economy and society depends⁹. The notion of sustainable development was first mentioned and defined in the late eighties of the last century by the World Commission on Environment and Development who defined sustainable development as the “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”¹⁰. Since then sustainable development become a benchmark slogan in both international and national environmental instruments. Principle 3 of Rio Declaration states that: “The right to development must be fulfilled to equitably meet developmental and environmental needs of present and future generations”¹¹.

Although sustainable development should be the ultimate goal for all human’s efforts in all aspects of life¹², sustainable development was widely considered by scholars and international environmental literatures as a principle of environmental law.

In Qatar, there are many legal provisions that adopt and enhance the principle of sustainable development. One can clearly cite Article 33 of The Permanent Constitution of the State of Qatar which offers a constitutional rank for the principle of sustainable development by stating that: “The State shall preserve the environment and its natural balance in order to achieve comprehensive and sustainable development for all generations”¹³.

Future generations or next generations is the term used to emphasize the importance of taking the environment into considerations while setting and implementing developmental plans. However, the term next generations trigger an ongoing debate among scholars and decision makers on the ground that next generations are not defined, and there in no certain answer about their numbers, needs,

⁹ It is now believed that: “sustainable development is far broader than just the environment. It's also about ensuring a strong, healthy, and just society. This means meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity”. UK Sustainable Development Commission, <http://www.sd-commission.org.uk/pages/what-is-sustainable-development.html>

¹⁰ World Commission on Environment and Development (WCED), Our Common Future. Oxford: Oxford University Press, 1987 p. 43. Available online at: <http://www.un-documents.net/our-common-future.pdf>. See also “Sustainable development in Qatar: Challenges and opportunities”, Renee A. Richer, Richer RA. Sustainable development in Qatar: Challenges and opportunities, International Review of Law, available online at: <http://www.qscience.com/doi/pdf/10.5339/connect.2014.22>

¹¹ Rio Declaration on Environment and Development 1992, United Nations (UN), available online at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

¹² Brundtland Report Indicated that, sustainable development requires: • A political system that secures effective citizen participation in decision making, • An economic system that is able to generate surpluses and technical knowledge on a • Self-reliant and sustained basis, • A social system that provides for solutions for the tensions arising from disharmonious • Development, • A production system that respects the obligation to preserve the ecological base for • Development, • A technological system that can search continuously for new solutions, • An international system that fosters sustainable patterns of trade and finance, and • An administrative system that is flexible and has the capacity for self-correction, World Commission on Environment and Development (WCED), Our Common Future. Oxford: Oxford University Press, 1987 p. 43. Available online at: <http://www.un-documents.net/our-common-future.pdf>.

¹³ The Permanent Constitution of the State of Qatar, available online at: <http://www.almeezan.qa/LawPage.aspx?id=2284&language=en>

knowledges and opportunities¹⁴. But for the environmentalists the term “future generations” provides for ethical understanding and responsible actions toward the environment and its resources¹⁵.

At the legislative level¹⁶, Article 3 of the Qatari Environmental Protection Law which reads as follows: “All administrative authorities in the State shall take the necessary measures and precautions to protect the Environment, combat pollution, conserve natural resources and ensure their sustainability to meet the development requirements for the present or future generations”¹⁷. Moreover, Article 2 which determines the objectives of the law states that: “Development of natural resources, conservation of the biodiversity and ensure optimum exploitation thereof for the benefit of the present and future generations” as the third objective of the law.

Environmental Protection Law 2003 and the its By-Law are particularly important since it outlines the basis of the current environmental protection policy in Qatar, and in particular:

1. contains objectives for environmental protection and sustainable development.
2. states that undertaking EIA is essential for development projects.
3. states that new projects should use, “a technology available and economically feasible to control the pollution and prevent the environmental deterioration”.
4. requires agreement of a contingency plan for environmental disasters.
5. details proposals for hazardous waste disposal and treatment.
6. presents restrictions on activities and environmental practices.
7. details a penalty system for violations¹⁸.

As per the Qatari soft law, Qatar National vision 2030 provides that: “Sustainable development is a process that seeks to meet the needs of the present generation without compromising the ability of future generations to meet their needs. This is often called intergenerational justice. The rights of future generations would be threatened if the depletion of non-renewable resources were not compensated by the creation of new sources of renewable wealth.”¹⁹.

¹⁴ For more see, Neil H. Buchanan, “what do we Owe Future Generations?”, 2011, Lewis & Clark Law Review, v Vol. 15:2, pp 339- 367, available online at: <https://www.lclark.edu/live/files/8325-lcb152art3buchanan>

¹⁵ For more see, Neil H. Buchanan, “what do we Owe Future Generations?”, 2011, Lewis & Clark Law Review, v Vol. 15:2, pp 339- 367, available online at: <https://www.lclark.edu/live/files/8325-lcb152art3buchanan>, and Maja Göpel, “Guarding our Future: How to Protect Future Generations”, 2010, the solutions journal, V 1, Issue 6, Pp 62-70. Available online at: <https://www.thesolutionsjournal.com/article/guarding-our-future-how-to-protect-future-generations/>

¹⁶ The key law for the environment is Law No. 30 of 2002 for Environment Protection. This aims to protect and conserve the environment and its natural balance, combat pollution, and to protect biodiversity, society & human health.

¹⁷ Qatar Environmental Protection Law, Law No. 30 of 2002 promulgating the Law of the Environment Protection, available online at: <http://www.almeezan.qa/LawPage.aspx?id=4114&language=en>

¹⁸ Legal Framework and Environmental Protection Criteria, Qatalum EIA Report, Available online at: https://www.qatalum.com/Lists/Publications/EIA_Report/Legal%20Framework%20and%20Environmental%20Protection%20Cireteria.pdf

¹⁹ Qatar National Vision 2030 is not a legislative tool, however, it provide for national frameworks or action plans in certain aspects, including human, economic, social, environmental development, Qatar National Vision 2030, Available online at: http://www.mdps.gov.qa/en/qnv/Documents/QNV2030_English_v2.pdf

The Law provides for certain means by which sustainable development can be achieved, examples of these means are to be found in Article 4 which requires “All Administrative Authorities to observe the environmental considerations, giving them top priority, consolidate these considerations in all the phases and levels of planning, and make the environmental planning an integral part of the overall industrial, agricultural, construction and other developmental planning”. Article 5 of the Law further requires “All Administrative Authorities, each within its competence, shall rationalize the exploitation of the living and non-natural resources to conserve the renewable resources thereof and sustain the use of nonliving resources for the benefit of present and future generations”.

There are certain applicable measures to achieve sustainable development, these measures include but not limited;

- 1- Rational planning
- 2- Using renewable resources and energy efficiency
- 3- Waste management
- 4- Environmental foresight

The State of Qatar is a small albeit wealthy country with huge natural resources i.e. Oil and Gas. In practice, the State of Qatar is at the top of the world richest countries²⁰.



Qatar also enjoys the highest GDP i.e. \$ 129,511.85, Qatar stand still at the first position since from the consecutive three years 2014, 2015 & 2016²¹. This fact results in certain consumption patterns that needs to be rationalized and alleviated so as to preserve the environment²².

²⁰ International Monetary Fund (World Economic Outlook Database-April 2016), <http://www.imf.org/external/index.htm>

²¹ International Monetary Fund (World Economic Outlook Database-April 2016), <http://www.imf.org/external/index.htm>

²² Measuring the Standard of Living in Qatar, A report prepared by the Ministry of Development Planning and Statistics, <http://www.mdps.gov.qa/en/knowledge/ReportsandStudies/SolEn.pdf>

Precautionary principle

Precautionary principle found its way to environmental law after great debate throughout the last few decades. The notion of precaution per se was not debatable; rather the implementation of precaution and the impact of such implementation on economic growth and scientific innovation were the centre of debate and rejection. It is a strategy to cope with possible risks where scientific understanding is yet incomplete, such as the risks of Nano technology, Genetically Modified Organisms, and Systemic Insecticides²³.

The essence of Precautionary principle requires proactive measures to be taken where human activities may lead to imminent albeit uncertain harm that is scientifically plausible. such harm may affect humans or the environment per se. some add that such harm must be irreversible²⁴.

The precautionary principle was articulated in Rio Declaration in principle 15 which reads as follows: "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation"²⁵.

In the Qatari law, one can find no express reference to precautionary principle; however, some provisions may be understood as setting up a guiding framework for environmental protection by imposing a duty of precaution in many deferent aspects²⁶. However, these provisions do not provide for the precautionary principle in the exact meaning it has been given under international treaties and declarations. Though, it has to be mentioned that these provisions must be understood under the constitutional direction which is formulated in article 33 of the permeant constitution of the State of Qatar under which the State has the responsibility to protect the environment²⁷.

Although, the precautionary principle has not been mentioned or adopted in the same way it appeared in international environmental instruments, the requirement of environmental impact assessment "EIA" – imposed by the Qatari environmental Law- can be considered as a partial application of the precautionary principle²⁸. There is also the Qatari law on the specifications and standardization system no 4/1990. Which is applied to monitor the products and services within Qatar to ensure its quality and

²³Precautionary principle, <http://www.precautionaryprinciple.eu>

²⁴ Abdelnaser Hayajneh, 2012, "Legal Protection for the Environment in Jordan and the United Arab Emirates: Comparative Outline", British Journal of Humanities and Social Sciences, November 2012, Vol. 7 (2), pp 64-87, available online at: [http://www.ajournal.co.uk/HSpdfs/HSvolume7\(2\)/HSVol.7%20\(2\)%20Article%206.pdf](http://www.ajournal.co.uk/HSpdfs/HSvolume7(2)/HSVol.7%20(2)%20Article%206.pdf)

²⁵ Rio Declaration on Environment and Development 1992, United Nations (UN), available online at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

²⁶ Articles (18, 27, 33, 37, 38, 45) of the Qatari Environmental Protection Law

²⁷ Article 33 reads as follows: "The State shall preserve the environment and its natural balance in order to achieve comprehensive and sustainable development for all generations".

²⁸ Environmental impact assessment was defined by Article 2 of the Law as the "The study related to the analysis of the environmental utility and that is done before licensing the enterprises which establishment or activities may affect the environment's safety. This study determines the possible environmental effects and the suitable procedures and means to prevent negative effects, to remove them or to limit them or to increase the positive effects of the enterprise on the environment."

safety to human and the environment²⁹. Under this law, Qatar General Authority for Specifications and Standardization is the only authorized body for the issuance, adoption, and deployment of standard specifications. Any other public or private body is not authorized to set standard specifications for the goods or services of any kind or origin in violation of the provisions of this law. The law also provides conditions for giving the product the Qatari certificate of conformity, inspection procedures, evaluation, awarding the certificate of conformity, examination of the product that received the certificate of conformity at one of the approved laboratories to ascertain its conformity with the approved standard specifications.

Polluter Pays Principle

The polluter pays principle is an environmental policy principle which requires that the costs of pollution be borne by those who cause it³⁰. This is the liability principle in environmental law, it requires the polluter to compensate for the harms caused to the environment by his/her activities. The polluter pays principle regularly appeared in international treaties and declarations. The Rio declaration provides for the polluter pay principle by stating that: “National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.”³¹.

In Qatar, the polluter pays principle is implemented by several tools, civil, criminal, and administrative measures. The Qatari Civil Law provides for the general rules on civil liability in Articles 199-219³². These rules are applied to all harms including harms to persons, property, and the environment. The efficacy of these rules is to be judged according to the characteristics of environmental damages, and the rules adequacy to compensate its victims and deter polluters. There is a strong debate on the adequacy of general rules of civil liability to face environmental harms, some call for special civil liability rules where environmental damage is in question, other argue that environmental harms are not special and can be treated with general rules of civil liability³³.

In terms of criminal law tools, the Qatari Environmental Law provides for many crimes in Chapter 5 Article 66-75, these crimes cover many aspects of pollution, unsound environmental practice, and violations. Article 66 provides for the application of the heavier penalty in any other laws and for the

²⁹ Qatari law on the specifications and standardization system no 4/1990, available online at: <http://www.almeezan.qa/LawPage.aspx?id=1659&language=en>

³⁰ Polluter Pays Principle, Mapping Environmental Justice, available online at: <http://www.ejolt.org/2013/05/polluter-pays-principle/>

³¹ Principle 16 of the Rio Declaration, Rio Declaration on Environment and Development 1992, United Nations (UN), available online at: <http://www.unep.org/Documents/Multilingual/Default.asp?documentid=78&articleid=1163>

³² The Qatari civil Law no 22/2004, available online at: <http://www.almeezan.qa/LawPage.aspx?id=2559&language=en>

³³ Peter Cane, “Are environmental harms special?”, *Journal of Environmental Law* (2001) 13 (1): 3-20, For more on this issue, see, Abdelnaser Hayajneh, “*Civil liability for environmental damage : a comparative study between Jordanian and English legal systems*” PhD thesis, Newcastle University, 2004, available online at: <https://theses.ncl.ac.uk/dspace/bitstream/10443/3119/1/Hayajneh,%20A.Z.%202004.pdf>

duplication of the penalty in the case of repetition as it states: “With respect to every high degree penalty stipulated in the Penal Code or any other law, everyone who violates the provisions of the mentioned articles in this chapter, shall be subjected to the penalties written next to each. In addition, the penalty shall be doubled in case of repatriation.”.

The penalties imposed by the law vary according to the severity of the violation, the main sanctions are imprisonment and fines, and according to Article 73 the court has the right to issue an order to close the enterprise of the establishment, to banish the foreigner or to confiscate the tools or equipment used in the violation. It also has the right to oblige the breaker to remove the violation and bring things back to normal³⁴.

At the administrative level, polluter pays principle may be used in the early stage of conducting environmental harmful activity; by imposing higher fees and more requirements before licensing such activity.

Environmental Impact Assessment

The State of Qatar complies with the principles of the United Nations Conference on the Environment and Development and Agenda 21, to institutionalize Environmental Impact Assessment for all new industry projects and it requires that activities and industries with potentially polluting impacts gain clearance from the ministry of the Environment prior to initiation of construction/commencement of new projects³⁵.

Section two of the Qatari Environmental Law is dedicated to environmental impact assessment, it contains of article 11-20, and as many as 17 articles in the Environmental Law executive list. Under the name “evaluation of the environmental effects”, the law defines the EIA as “the study related to the analysis of the environmental utility and that is done before licensing the enterprises which establishment or activities may affect the environment's safety.

This study determines the possible environmental effects and the suitable procedures and means to prevent negative effects, to remove them or to limit them or to increase the positive effects of the enterprise on the environment”³⁶.

The law and its executive list provide for a detailed process regarding the conducting of environmental impact assessment for a long list of developmental projects. The core of environmental impact assessment is to anticipate any adverse environmental effects before it occurs, environmental impact assessment is viewed as administrative tool by which the competent authorities can control, plan, and avoid any harmful effect to the environment because of human activities³⁷.

³⁴ Article 73 of the Qatari Environmental Law states: “When pronouncing the crimination sentence, the court has the right, according to the circumstances, to close the enterprise of the establishment, to banish the foreigner or to confiscate the tools or equipment used in the violation. It also has the right to oblige the breaker to remove the violation and bring things back to normal”.

³⁵ The Ministry of Environment is the body responsible for environmental protection and legislation in the State of Qatar. It was originally known as the Supreme Council for the Environment & Natural Reserves which was established to protect the environment of Qatar and support the development and sustainability of the country's living and non-living natural resources.

³⁶ Article 1/18 of the Qatari Environmental Law.

³⁷ Article 11 of the Qatari Environmental Protection Act provides for Coordinating with the competent administrative authorities, the council sets the standards, characteristics, basis, and restrictions necessary to evaluate the environmental effect of enterprises and projects that need to be licensed. The council shall,

This adoption of environmental impact assessment is a strong sign for the implementation of precautionary principle and the sustainable development principle which seems to be the overwhelming principle pertaining the Qatari approach towards environmental protection.

Public Participation

Public participation is an important component of environmental law and policy, it consists of three main elements, right to information, right to participation in decision making process, and Access to justice.

• Right to Information

The right to information is a well-recognized right in many international and national legal documents. However, no explicit reference has been made for this right in the permanent constitution of the State of Qatar as well as Qatari legislation and regulations. The significance of the right to information lay in the fact that participation in the decision-making process requires at least a minimum of knowledge and awareness to be productive and useful³⁸.

• Participation in decision making process

The permanent Constitution of the State of Qatar provides for a certain representation of the people in Al Shura Council. According to Article () the legislative authority in Qatar consists of his highness the Amir and Al Shura Council, the later includes 45 members, one third of them shall be appointed by the Amir, and 30 members are to be elected directly by the people according to the election law which is still awaited.

In an environmental context, this representative democracy is commonly adopted in many of the world states; since it seems more applicable and feasible. In Qatar the role of Ashura council is theoretically reasonable while it relatively limited in practice due to the developmental stage of democracy in the Arab world. Just recently His Highness sheikh Tamim bin Hamad Al Thani – Emir of Qatar-announced that an election law will be prepared and reviewed by the Government and Ashura Council, and therefore, a new 30 elected members will start their legislative role. This is seen by commentators as a significant step to further enhance Qatar's democracy³⁹.

in particular: **1-** determine the categories and parts of public and private development enterprises that can, because of their work nature, cause damages to the environment. **2-** determine the regions and locations, characterized by their environmental importance, according to the standards of environment protection. The executive list determines the procedures of evaluating the environmental effect and the conditions necessary to grant the enterprise the environmental license or to grant the operating license and determines the conditions for stopping or nullifying it.

³⁸ Abdelnaser Hayajneh, “*Civil liability for environmental damage : a comparative study between Jordanian and English legal systems*” PhD thesis, Newcastle University, 2004, available online at: <https://theses.ncl.ac.uk/dspace/bitstream/10443/3119/1/Hayajneh,%20A.Z.%202004.pdf>

³⁹ Speech by his Highness Tamim bin Hamad Al Thani in the opening of the 46th session of Ashura Council, Nov 2017, available online at: <https://www.youtube.com/watch?v=fP0gA9DuHFo>

An important aspect of public participation is the civil society and the non-governmental organization, these bodies enable individuals to act and express their views regarding issues affecting them and their life. Therefore, the Qatari Constitution set up the base to form societies and organizations by interested individuals and groups. Article 45 provides the following: “The right of citizens to establish association is guaranteed in accordance with the conditions and circumstances set forth in the law”.

• **Access to justice**

The right sue is guaranteed under Article 135 of the Qatari Constitution which provides: “The right of litigation is inviolable, and it shall be guaranteed to all people. The law shall specify the procedures and manner of exercising this right”. Accordingly, everyone has the right to resort to the competent judicial body within the national judicial frameworks”.

There is no special environmental court in Qatar, so that, the ordinary courts have competence over all kind of cases be it criminal or civil actions. At an administrative level, article 46 of the Qatari Constitution Provides that: “Individuals have the right to address public authorities”. This right can be exercised in environmental context, but the legislation must make it clear that every individual has an actionable right to a healthy environment. Such reference will offer standing to victims of environmental pollution and may offer locus standi for environmental interest groups.

Common but Differentiated Responsibilities Principle

Although this principle has an international nature and applications refereeing to the different international environmental obligations among States, but it can also be implemented within a domestic context. The legislator and other competent authorities may classify sectors according to their environmental impacts and then set different standards and legal requirements to these sectors.

In this context, Qatar may consider establishing environmental fund, and impose certain taxes on polluting activities according to its contribution in environmental pollution. This approach will be suitable to raise funds to conduct environmental restoration and clean up campaigns.

Conclusion

While all environmental law principles can be traced via Qatari national documents or administrative practices, exploring Qatari legal instruments reveals that environmental law principles are partly recognized, some of them appear expressly at the constitutional level i.e. Sustainable Development Principle, and to some extent Public Participation Principle. Other principles are incorporated within the Environmental Protection Law i.e. Precautionary Principle, Environmental Impact Principle, and to a certain extent Polluter Pays Principle.

Recommendations

The appearance of environmental law principles needs to be more expressly reorganized, Qatari Environmental Protection Law seems to be the most appropriate place where these principles, a

provision of the Environmental Protection Law including all environmental law principles is desirable. This step at this stage of Qatar's preparation for Qatar 2022 World Cup - which will be the first ever world cup hosted by a middle eastern country - will give Qatari Preparations a legal environmental framework that will enhance Qatar's legacy left to the hosting nation by the organization of such mega sport and internationally widely recognized event.

References

- The Permanent Constitution of the State of Qatar, available online at: <http://www.almeezan.qa/LawPage.aspx?id=2284&language=en>
- HUKOOMI, Qatar e-Government official website, Environment and natural resources section, <http://portal.www.gov.qa/wps/portal/topics/Environment+and+Natural+Resources/Environmental+Preservation>
- Qatar Environmental Protection Law, Law No. 30 of 2002 promulgating the Law of the Environment Protection, available online at: <http://www.almeezan.qa/LawPage.aspx?id=4114&language=en>
- World Commission on Environment and Development (WCED), Our Common Future. Oxford: Oxford University Press, 1987 p. 43. Available online at: <http://www.un-documents.net/our-common-future.pdf>
- Rio Declaration on Environment and Development 1992, United Nations (UN), available online at: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>
- UK Sustainable Development Commission, <http://www.sd-commission.org.uk/pages/what-is-sustainable-development.html>
- Abdelnaser Hayajneh, "Environmental Law, the general theory with explanation of environmental legislation", 2012, Dar Al- Thaqafah, Amman, Jordan.
- Abdelnaser Hayajneh, 2012, "Legal Protection for the Environment in Jordan and the United Arab Emirates: Comparative Outline", British Journal of Humanities and Social Sciences, November 2012, Vol. 7 (2), pp 64-87, available online at: [http://www.ajournal.co.uk/HSpdfs/HSvolume7\(2\)/HSVol.7%20\(2\)%20Article%206.pdf](http://www.ajournal.co.uk/HSpdfs/HSvolume7(2)/HSVol.7%20(2)%20Article%206.pdf)
- Qatar National Vision 2030, Available online at: http://www.mdps.gov.qa/en/qnv/Documents/QNV2030_English_v2.pdf
- Measuring the Standard of Living in Qatar, A report prepared by the Ministry of Development Planning and Statistics, <http://www.mdps.gov.qa/en/knowledge/ReportsandStudies/SolEn.pdf>
- International Monetary Fund (World Economic Outlook Database-April 2016), <http://www.imf.org/external/index.htm>
- Precautionary principle, <http://www.precautionaryprinciple.eu>
- The Qatari civil Law no 22/2004, available online at: <http://www.almeezan.qa/LawPage.aspx?id=2559&language=en>
- Qatari law on the specifications and standardization system no 4/1990, available online at: <http://www.almeezan.qa/LawPage.aspx?id=1659&language=en>

- Peter Cane, “Are environmental harms special?”, *Journal of Environmental Law* (2001) 13 (1): 3-20
- Abdelnaser Hayajneh, “*Civil liability for environmental damage : a comparative study between Jordanian and English legal systems*” PhD thesis, Newcastle University, 2004, available online at: <https://theses.ncl.ac.uk/dspace/bitstream/10443/3119/1/Hayajneh,%20A.Z.%202004.pdf>
- Neil H. Buchanan, “what do we Owe Future Generations?”, 2011, *Lewis & Clark Law Review*, v Vol. 15:2, pp 339- 367, available online at: <https://www.lclark.edu/live/files/8325-lcb152art3buchanan>
- Maja Göpel, “Guarding our Future: How to Protect Future Generations”, 2010, *the solutions journal*, V 1, Issue 6, Pp 62-70. Available online at: <https://www.thesolutionsjournal.com/article/guarding-our-future-how-to-protect-future-generations/>
- Legal Framework and Environmental Protection Criteria, Qatalum EIA Report, Available online at: https://www.qatalum.com/Lists/Publications/EIA_Report/Legal%20Framework%20and%20Environmental%20Protection%20Cireteria.pdf
- Neil H. Buchanan, “what do we Owe Future Generations?”, 2011, *Lewis & Clark Law Review*, v Vol. 15:2, pp 339- 367, available online at: <https://www.lclark.edu/live/files/8325-lcb152art3buchanan>
- Qatar Legal Portal, <http://www.almeezan.qa/AgreementsBySubject.aspx>
- Speech by his Highness Tamim bin Hamad Al Thani in the opening of the 46th session of Ashura Council, Nov 2017, available online at: <https://www.youtube.com/watch?v=fP0gA9DuHFo>

Acknowledgment

This research is conducted as part of a National Priority Research Programme “NPRP” research project funded by the Qatar National Research Fund “QNRF”. The project title is “The Legal framework for Construction Contracts: Challenges and Aspirations in light of the Qatar FIFA World Cup 2022”. Project No: (NPRP 8-999-5-136). The Research team consist of Prof. Abdelnaser Zeyad Hayajneh, Dr. Hassan Elbarrawy, Dr. Yasin Elshazly, Dr. Tarek Rashid, and the Research Assistant Mrs. Shorook Abdoh.

Thanks, and gratitude’s are due to QNRF and Qatar University for the generous support.

Qatar National Research Fund (QNRF)



Qatar Foundation (QF) established Qatar National Research Fund (QNRF) in 2006 as part of its ongoing commitment to establish Qatar as a knowledge-based economy. QF views research as essential to national and regional growth, as the means to diversify the nation’s economy, enhance educational offerings and develop areas that affect the community, such as health and environment. For further information on research fund outlets and opportunities please visit the QNRF official website at:

<https://www.qnrf.org/en-us/>

Qatar University



Founded in 1973, Qatar University comprises nine colleges: Arts and Sciences; Business and Economics; Education; Engineering; Health Sciences; Law; Medicine; Pharmacy; and Sharia and Islamic Studies. Over the years, the University has continually expanded its wide range of new programs—the largest selection in the country—while fastidiously seeking the highest international accreditations, and ensuring they are aligned with the growing needs of the labor market and the aspirations of the society it serves. It currently boasts a population of over 20000 students, and an alumni body of over 40,000. For further information, please visit the QU official website at: <http://www.qu.edu.qa/>