

Assessment of Weaknesses and Inadequacies in Libyan Laws and Legislation on the Protection of Vegetation

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Abstract

In recent decades, the countries around the world have made great efforts in environmental protection programmes, where they have worked to establish a variety of organizations and bodies to support those efforts, especially developing countries, including the issuance of several international treaties, conventions and protocols, accompanied by many legislations and laws on the protection, preservation and maintenance of the environment for future generations, particularly those laws and regulations which deter certain industrial activities which have been reunited and destroyed by vegetation and in the same way hundreds of regional and international seminars and conferences to preserve them. This study highlights the importance of Libya's laws and regulations on the conservation of vegetation and natural resources and the Inadequacies of those laws, which may render them incapable of achieving the objectives for which they have been set, and one of the most significant objectives is to be able to contribute as much as possible to the reduction pollution, as well as that the provisions of the Pun law. The study concluded that there is a clear deficiency in Libya's laws on the protection of vegetation and natural resources, particularly in the field of sanctions and the prevention of offenders and perpetrators of such crimes, including Law No. 15 of 2003 on the protection and improvement of the environment contained in articles (72-73-74) and some paragraphs of Law No. 6 of 1996 on the protection of agricultural land and Resolution No. 9 of 2012 on the protection of public land, In addition to some other Libyan regulations on the agricultural sector. At the end, the study aims to make some suggestions to jurisdictions on strengthening the criminal provisions of Libyan legislation related to those in bordering countries, for example, to provide compensation based on the degree of damage caused, redress for conventional and environmental damage, and the cost of restoring the status quo or restoring the environment.

Keywords

Vegetation, Environment, Libyan Law, Environmental Protection

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1. Introduction

The Libyan state has taken care of the environment over the last three decades and has been involved in the establishment of a General Environmental Authority, which has been responsible for defining environmental protection standards, regulations and legislation, signing regional and international

agreements, and monitoring its implementation, and controlling the excesses of conferences and scientific seminars to contribute to the process. Raising awareness of environmental protection in collaboration with ministries, agencies and research centers.

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Biodiversity is one of the important topics that received attention from the religion of Islam, where the Prophet Mohammed peace be upon him, urged to pay attention to the restoration of the earth, to say Aisha, may God bless her, about the Messenger of God, peace be upon him, that he said "if the clock is up and in the hands of one of you a palm tree, he could not do so until he planted it". [1]

This is a strong indication of the importance of the interest in developing vegetation and tree cultivation due to its importance in the continuation of natural cycles, the continuation of essential energy and the preservation of natural resources. It is found in southern Libya, which, for example, relies on palm products and is one of the most important traditional industries. In this context, several laws and legislations on the conservation and protection of vegetation are passed for future generations, for example, Law No. 5 of 1982 on the protection of forests and pastures and Law No. 6 of 1996 on the protection of agricultural land and Law No. (15) of 2003 on the protection and improvement of the environment.

The study seeks to identify the weaknesses and Inadequacies in Libya's vegetation laws and legislation, where it is noted that the lack of such legislation in the aspect of sanctions prevents violators from complying with the provisions of those laws, as well as the lack of awareness among the citizens of the importance of preserving the vegetation [2], and the importance of the study lies in attempt to identify the Inadequacies of Libya's environmental protection legislation with regard to the biodiversity of vegetation in relation to the violations and penalties and the ability of these laws to protect the environment from human hazards that have become destructive conduct of biodiversity and the ecosystem. these penalties are, in general, dissuasive of those who violate the provisions of those laws and legislation. Finally, the issue of the study, given to the authors, is the Inadequacies of some Libyan laws relating to the protection of land, forests and vegetation due to the destruction, degradation and violation of the laws on biodiversity due to its inability to protect vegetation and to punish those responsible for violating, due to the weak provisions of certain laws to punish violators with sanctions that are consistent with the severity of destruction of the ecosystem.

2. Conceptual Framework

2.1. Definition of Biodiversity

Biodiversity is known as (all living species on the planet are among the smallest of the largest, and it includes all living organisms in the biological classification, from the least developed bacteria to the most advanced mammals) [3].

biodiversity is also made up of 1.7 million species of organisms discovered and categorized from plants, algae, micro-organisms, invertebrates, etc., and the International Convention on Biodiversity is known as (the diversity of genes and their distribution in all organisms, provided that the mystery and essence of life is manifested by its great genetic dictionary, DNA and its billions of genetic codes that guarantee the protection and viability of life) [4].

2.2. The Importance of Biodiversity

Biodiversity is of great importance in many respects:

2.2.1. Economic Aspect

Biodiversity plays an important role in the world economy; diversity provides us an opportunity to learn about different genetic structures, that help to produce better plants and new plants that improve the economy, and biodiversity contributes to the supply of human beings with all they need, such as different wood, food from plants, animals, and other species.

2.2.2. Aesthetic and Ethical Value

biodiversity and the various types of species around human are a beautiful aesthetic value, and must be the only one capable of investing and preserving his surroundings, and since human is capable of destroying all habitats, he is also responsible for protecting different ecosystems.

2.2.3. Health Aspect

The entire pharmaceutical industry relies on microorganisms and plants, with 70% of the world's population dependent on plants for their treatments, and 40% of medicines prescribed by physicians include plant and animal components such as aspirin, e.g. extracted from the leaves of tropical willow trees. [5, 6]

2.3. The state of Biodiversity in Libya

Biodiversity in Libya is relatively weak, with most surveys by the General Environmental Authority and other local and international organizations involved in this field indicating that there are about 1750 species of plants, followed by 744 species spread over 118 family, representing 96% of non-endemic species and 4590 species of animals, including 455 species of vertebrates and 3958 invertebrates. As far as mammals are concerned, there are 76 species which fall into 10 grades, 25 family and 47 species, two of which are endemic in Libya, of which 13 are endangered, with 113 species for 14 species, of which four are endangered. In terms of amphibians, Libya is one of the poorest countries, as there are only two species registered so far, and with regard to migratory and resident birds, there are 356 species of 61 subfamily and 18 grades, of which 41 are endangered locally or globally. [7]

Table 1. Statistics of Biodiversity in Libya according to the General Authority for the Environment.

	Species	family	Grades
Plants	1750	118	744
Mammals	76	25	47
Vertebrates	455	-	-
Invertebrates	3958	-	-
Birds	356	61	18
Reptile	113	14	-
Fish	100	4	-
Algae	175	3	-

These statistics are in fact insufficiently accurate due to the following reasons:

1. Do not collect annual or periodic reports.
2. biodiversity in the region varies due to the variability and diversity of ecosystems.
3. Lack of material resources for biodiversity-related bodies, institutions and research centers.
4. Lack of qualified trained staff and environmental engineers.
5. The expansion of the geographical area of the state.
6. International organizations do not support scientific studies and research in this regard.
7. Lack of comprehensive data for much of Libya's territory.

On the environmental side, the ecosystems of Libya can be divided into the following sections:

Coastal ecosystem

Semi-desert ecosystem

Mountain ecosystem

Desert ecosystem

The coastline represents approximately 5.5% of the area of the Libyan state considered to be the most fertile, with 150 to 600 mm of monsoon rains per year, and the coastline contains about 75% of the total known and registered Libyan plants, and the Libyan coast. Diversity in terms of topography and environmental factors, as well as this coastal strip includes lakes, bays and valleys, that arise and add to the region's marine biodiversity and have reported the presence of 29 species of green algae, 34 species of brown algae, and 112 species of red algae in Libyan territorial water. regard to fish, there were 100 species of bony fish, of which 45 live on the beaches, 55 species of cartilage fish and 22 species of exotic fish, of which 16 are from the Red Sea. [8]

2.4. Biodiversity Legislation and Laws on the Vegetation

2.4.1. International Action on the Conservation and Protection of Biodiversity

1 United Nations First Environment Conference in Sweden

(Stockholm, 1972)

The Stockholm Conference issued the first International Declaration on the Human Environment, which is the first meeting of work in the field of international law, since it includes a collection of well-known and appropriate principles for the regulation of environmental affairs [9], and one of the most relevant principles on vegetation biodiversity is:

1. For the benefit of the present and future generations, the natural resources of the planet, including air, water and soil.
2. The ability of the planet to generate essential renewable resources must be maintained.
3. Human beings have a special responsibility in preserving the heritage of wildlife.
4. Environmental policies for all states should enhance development potential both in the present and in the future.
5. Non-renewable resources must be used in a way to protects them from access.
6. Dumping of toxic chemicals or other substances and the release of heat in large amounts should be stopped.[10]

2 United Nations Second Environment and Development Conference (Rio de Janeiro, 1992)

The conference was held in Rio de Janeiro, Brazil, with the aim of creating new global involvement by creating new levels of cooperation between states and key sectors of society and peoples. the conference came after several environmental disasters, one of the most significant nuclear disasters in the century is the Chernobyl nuclear reactor accident in Ukraine in 1986 and has been the most severe environmental disaster ever, and the United States and Canada have contributed to these agreements, primarily through the economic production of toxic gases, which has caused high temperatures and increased erosion of the weight layer and its expansion [11]. the most important recommendations of the conference include:

1. Instead of all efforts to eliminate global warming and protect the atmosphere and the weight layer by reducing the emission of warm gases that act to soften the climate.
2. The government's decision to suspend the work of the National Assembly is a matter of serious national security.
3. Combating desertification and drought caused by soil erosion and climate change.
4. Restoration of biodiversity in order to ensure the continuity of environmental balance.
5. Supporting the agricultural sector and rural development, ensuring its sustainability and an integrated approach to the planning, development and conservation of natural resources.

One of the most important outcomes of the conference was that the meeting reached the conclusion of number of agreements ratified by more than 150 countries that participated in the conference and highlighted the following:

1. the Convention on Biological Diversity to protect the planet from environmental destruction and to protect the diversity of animals and plants, especially those of endangered and rare breeds.

2. The Convention on the Reduction of Global Warming, signed by most countries with a view to combating rising temperatures by reducing the emission of greenhouse gases, in particular carbon dioxide, is the main cause of this dangerous phenomenon. [12]

3 Nairobi Declaration of 1992

The Nairobi Declaration adopted the support of developing countries physically, technically and scientifically to address desertification and drought, promote agriculture, fight poverty and to improve environmental conditions. [13]

2.4.2. Local Actions for the Conservation and Protection of Biodiversity

1 Law No. (33) of 1970 on the protection of agricultural land as amended by Law No. (4) of 1973

The law was then passed in an attempt by the Libyan state to protect agricultural land from all destruction, especially the fertile land, which constitutes a small percentage of which does not exceed approximately 1.45% of the total area of the state, and the provisions of that law included the definition of the term of agricultural land and related prohibitions and the prohibition of its exploitation from harmful activities, and summarized in article II of that law that prevents harm to agricultural land and its trees and plants. it also forbids the establishment of public and private facilities on them, and also punishes anyone who does any other act that harms it, including neglect of the land. [14]

2 Law No. 5 of 1982 on the protection of forests and pastures

In the context of the state's interest in confiscating the natural wealth of forests and pastures, preventing harm to forests and protecting biodiversity, the law has been adopted, which can be summarized as follows:

Encourage the exploitation and investment of pastures and forests in ways that ensure their sustainability and growth.

Criminalizing certain acts harmful to forests and pastures, such as overgrazing and cutting or burning trees, in order to protect them from such acts.[15]

3 Law No. (7) of 1982 on environmental protection

The law was passed with the intention of protecting the environment in which humans and all living species, including

water, air and food, from contamination, and finding effective ways to measure pollution with strategies and plans to prevent or reduce environmental pollution.[16]

4 Law No. (22) of 1989 on industrial regulation

This law was passed with the intention of regulating industrial activities and identifying their foundations, tools, means and conditions. chapter 5 of the law on public safety and preventive protection, criminalizes acts that are harmful to the environment, including the disposal of plant waste and waste to agricultural land, forests and pastures, contributing to environmental balance and the loss of its biodiversity. [17]

5 Law No. (15) of 1992 on the protection of agricultural land and its addition to Law No. 6 of 1996 amending the provisions of the Agricultural Land Protection Act

The law has been passed in accordance with the law and the second paragraph of the law stipulates that it prohibits damage to agricultural land and its trees and plantings, whether by damaging the soil, spoiling the earth's minerals, reducing its fertility, destroying trees and plantings, cutting to damage or destroy any sources of destruction. Water, means of carrying, pumping or other harmful acts also included the paragraph that it is forbidden to set up public facilities such as workshops, corporate and other premises on agricultural land, and may be established by public utilities on land that has been shown not to be subject to agricultural reclamation, such as sandy, stone and salt land (moorland), as well as a harmful act of any negligence resulting from it or causing damage to land, trees, plantings and agricultural installations. Article 5 of the Law stipulates that agricultural land may not be included in the plans of cities and villages only after the competent authorities have done so and that it is also not permissible to cut trees in land within the limits of the approved schemes until a permit has been obtained from the same authority.

With regard to the penal aspect, the law adopted in article VII that anyone who violates the provisions of that law shall be punished with a fine equal to the value of the damage caused by the offender on agricultural land. In any case, the court rules the removal of the facilities set up in violation at the expense of the offender, and the execution of the sentence must not be postponed.

In 1996, law No. 6 was issued on the amendment of an article in the Agricultural Land Protection Act, where article II stipulated that article 7 of Law No. 15 of 1992 on the protection of agricultural land should be replaced by the following text: "Any person who violates the provisions of this Law shall be sentenced to imprisonment for a period of not less than three months and shall be subject to a fine equal to the value of the damage caused by the offender to agricultural land, in all cases the court shall rule over the

removal of facilities established in violation at the expense of the offender, and shall not be suspended. Execution of the sentence." [18]

6 Law No. (15) of 2003 on the protection and improvement of the environment

This law was passed at the beginning of the millennium, with the rapid development of various human activities and the emergence of the problem of environmental pollution and the resultant imbalance of the ecosystem, in line with the international interest in environmental issues and in this regard it was issued by the statutory Law 15 with the aim of protecting the environment in which all live. As this law instructed the relevant authorities to find appropriate ways of measuring pollution in order to reduce pollution, this law also contained number of chapters on the preserve all elements of the environment, but did not allocate a chapter on the conservation of biodiversity, which represents the bulk of the ecosystem, yet other relevant chapters on biodiversity can be investigated. The law provided the competent authorities with the process of monitoring the soil as the main habitat for the growth and feeding of plants and preserving their composition and protecting them from erosion and drift factors and not stressing them by following agricultural cycles while taking care to use appropriate organic and chemical fertilizers and maintain their fertility and function in the establishment of green belts to prevent soil erosion and maintain vegetation. On the plant protection side, the law has set out several strategies for the protection and development of vegetation by regulating grazing and protecting pastoral areas to give vegetation the opportunity to grow, replicate and cultivate acceptable pastoral plants of high pastoral value and suitable for environmental conditions. Work needs to be done to prevent the extinction of plants, especially wild plants. Also among the strategies is to conduct studies and research necessary for the development of plants to increase production and provide the fastest and cheapest ways to multiply them. On the forest side, the law considers that all forests located within or around the plans of cities and villages are public parks and forbids the use of any uses for such purposes unless special legislation established, although the use of public forests as execution areas for oil, chemical, rubber, garbage, construction waste, civil works or scrap dumping is forbidden. They also forbid the poor exploitation of these forests, particularly those originating on sandy land or wind-like soils, in particular:

1. Setting the forest on fire in any way.
2. Destroy, change locations or cover specific markings to identify forests.
3. Planting or tilling of forest land.
4. Unauthorized logging in.

5. Grazing in forests is contradictory to grazing systems and methods

The law sets out a chapter on penalties, which is the field of vegetation in articles (72-73), where it refers to the penalty of not less than 1,000 LYD and does not exceed 5,000 LYD for anyone who cut down forest trees without a permit or damaged the green spaces in any way, or changed or concealed the places of the specific signs of the forest. A fine of not less than 500 LYD and not more than 1,000 LYD is imposed on anyone who dumps construction waste, oil, chemicals, garbage, scrap or dead animals, in forests, gardens, streets, public buildings and other public places. [19]

3. Result and Discussion

Through the previous review of the most important laws and legislation concerning vegetation cover and the protection of agricultural land and pastures, it became clear that there are some Inadequacies in those laws, especially in the provision of penalties, where the penalties issued against violators were traditional and none of those penalties provided for the deterrent punishment from the point of view of the researchers, which is the punishment is fair and deterrent, but is limited to material punishments, which are mostly simple and do not rise to the costs of restoring the status as it was in Egyptian law. No. (4) 1994 on the environment.

If law No. (15) of 2003 is compared to the oldest law (7) of 1982 on the environmental protection, we note that the previous law was more severe in the penalty clause, which is article (73) of Law 15, which punishes a fine of no more than 1000 dinars for throwing waste from construction, oil, chemicals, garbage, scrap or dead animals and others in forests and gardens. In the same article of the law of 7 referred to above, we note that the article provides for a prison sentence of up to 3 months and a fine not exceeding 200 Libyan dinars or one of those penalties. Hence, the inclusion of law 7 on the penalty of incarceration, which is considered to be a dissuasive and more moral from our point of view, even if its duration is insufficient and the absence of law 15 for this penalty, which is the latest, even if the monetary fine is compared between the two laws, where the most recent fine is higher, the fine was more severe in the oldest law. Given the cost of living and the high inflation rate between 1982 and 2003, the value could be comparable. It should be noted through the study of the law on the protection of vegetation, if there are several paragraphs in the penal code which differ from one law to another, for example, the reference of Article II of Law No. (5) of 1992 on the protection of agricultural land, which provides (prohibiting damage to agricultural land and its trees and plantings, whether by destroying the soil, spoiling the metal of the land, reducing its fertility, destroying trees and

plantings, cutting or damaging them in any way or damaging water supplies, or the court shall be punished by article 7 of the same law, which stipulates that "anyone who violates the provisions of this law shall be punished with a fine equal to the value of the damage caused by the offender to agricultural land". In all cases, the court shall not suspend the removal of the facilities established in violation at the expense of the violator and the execution of the sentence), which is not subject to an amendment to article I of Law No. 6 of 1996, which is replaced by article 7 of law (15) for the year of 1992 On the protection of agricultural land by the following provision (anyone who violates the provisions of this Law shall be sentenced to imprisonment of not less than three months and not more than one year, and a fine equal to the value of the damage caused to agricultural land). and in all cases the rules of the court for the remove of the facilities built in violation at the expense of the violation and the execution of the sentence well not be suspended) it should be noted here that the law increased the penalty by imprisonment in the amendment of 1996 and a fine not limited to the amount of damage committed, and in contrast to law No. (15) of 2003 on the protection and improvement of the environment in Article 72, which provides for the punishment of anyone who cuts down forest trees or damages green spaces or arson with a fine of not less than 1,000 LYD and not more than 5,000 LYD and article (73), which provides for the punishment of the remains of the casting of chemical or oil residues in forests and parks with a fine of not less than 500 LYD and not more than 1,000 LYD, and by comparison of the two laws, there is a strictness in the agricultural legislation provided to protect agricultural land, which is the oldest law, while in the latest environmental law does not provide for a penalty of imprisonment and does not relate the fine to the size of the damage committed, where the law stipulates the fine up to 5000 LYD, which may often not equal the value or magnitude of the damage The perpetrator and pollution of the forest can make it an incentive for some people to cut off large areas of forest to take advantage of them and to encroach on them because the fine is few in the face of the look. noting the conflicting laws on forests damage in terms of the different provisions of the penalty, where the first has been tightened in that regard, which is considered to be the destination of the consideration of the two courtyards to be satisfactory, while the penalty in environmental law has not lived up to the penalty of deterrence, as indicated by the heterogeneity of the laws on the protection of vegetation and agriculture issued by the relevant authorities, which indicates overlap in terms of reference and lack of coordination between them, and the emphasis of efforts and the unification of legislations where for example, those violating cutting or cover sabotaging are punishable by the text of Law No. 7 on the protection of agricultural land or law No. 15 on the protection and improvement of the environment.

4. Conclusion

By discussing and comparing laws relating to vegetation, we can summarize a number of criticisms as follows:

1. Lack of cooperation and collaboration between the competent authorities to protect the vegetation by issuing legislation related to this matter.
2. The heterogeneity of the monetary and moral sanctions between the laws that are passed by different parties dealing with vegetation.
3. Poor technical equipment and material capabilities for the purpose of assessing the extent of the damage and the prospect of carrying out penalties against the offender, which make it difficult for the law to achieve the required protection, giving more incentive for the violators to persist in violations and escape from punishment.
4. The legislature linked an invitation against anyone who violates the provisions of the law by submitting a complaint to the competent authority for the protection of the vegetation
5. Most of the penalties were simple and limited to traditional penalties and did not include imprisonment, daily fines or fines for probation or suspension of factories and construction.

5. Recommendations

A number of recommendations can be summarized in the previous presentation of the Inadequacies of laws and legislation on the protection of vegetation, land and pastures, the most important of which are:

1. Work to standardize legislation and laws in the form of sanctions between institutions and entities with authority to protect vegetation such that there is no overlap of competences.
2. Penalties for violators should include imprisonment, as well as linking the fine to the size of the damages committed.
3. Work to spread environmental awareness, especially in the field of protecting agricultural and forestry land, and raising the awareness of society about the importance of protecting vegetation and introducing laws and relevant legislation and the resulting penalties.

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