

Analysis of the Perspective of Islam and International Law on the Wartime Environment with Emphasis on the Maritime Environment

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Abstract

Background and Theoretical Foundations: In Islam, some laws support the environment in wartime, while this issue has been reached after the Battles of the Middle Ages and the arrival of the Industrial Revolution in Europe, and later in international law, it has come in the form of treaties and conventions. The global view of environmental components shows the world trapped in a dangerous situation.

Methodology: In this research, using a descriptive-analytical method and collecting library and documentary resources, the perspective of Islam and international law on the environment during wartime was examined, with an emphasis on the marine environment.

Findings and Conclusion: Results showed that wars, as one of the human actions, have caused extensive destruction to the human environment and other living beings. There are two types of laws to protect the environment

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during wartime. First of which is international laws during wartime that are considered critical conditions compared to peacetime. The second is the laws of armed war. These laws are not comprehensive for the protection of the environment and require a stronger implementation guarantee. For this reason, in addition to international laws and documents, it is necessary to use all available capacities, including the teachings of Islam. Therefore, observing Islamic principles and teachings, adhering to international laws, and creating a protective regulatory body will make it possible to protect the marine environment.

Keywords: War, Islam, Prophet, International law of Marine Environment.

1. Introduction

Although the progress of science and industry has brought comfort, prosperity, and comfortable life to human societies, this has endangered the lives of humans and other living and has become a serious threat to future generations. The increasing heat of the earth, air pollution, war, insecurity, etc. have forced scientists and environmentalists to seek solutions, and following the protests and serious warnings of environmentalists, governments and powers to establish laws to save the human environment from destruction to maintain biological resources. At the same time, Islam established laws and regulations to protect the environment. Examining the verses of the Holy Qur'an and the traditions of our prophet on the importance of the environment, these aim to educate man and guide him through the service of God. It takes the form of respecting the rights of others exploiting nature's gifts through moderation, and giving up extravagance, greed, and waste. Therefore, paying attention to the environment in Islam has rich support, and one of the most effective ways is to create a culture in this field and make people feel the serious threats caused by the destruction of resources. In the Western world, along with the economic growth and the Industrial Revolution, the environment was exposed to destruction and transformation. Having a healthy environment, led the members of the international community to draft and approve legal documents



in this field. However, what is important is that war has caused new changes in the environment. What has changed human life is that wars are moving from the lands and are mostly drawn toward the seas. A clear example of this is Russia's attack on Ukraine or Yemen's Houthi attack and the recent tensions between China and Taiwan, all of which indicate an increase in tension in international waters damage to the environment, and a serious change in the seas and oceans. One of the problems that may increase the risk of destruction in the future is war, because with the increase in the global temperature, the lack of water in most countries, and the access to fresh water resources, we may face harsh conflicts. War causes a lot of damage to natural resources, and in some cases, the conflicting parties affect vital resources such as international waters to put pressure on each other.

On this basis, the following questions with a focus on the intensification of conflicts and their damage to the marine environment have been raised:

- 1- Is it possible to protect the marine environment during war? If the answer is yes, what are the obstacles and how can they be removed or reduced?
- 2- How can Islam and international laws help to protect the marine environment?

The problem assumes that the legislators have been able to take steps to improve the environmental conditions by enacting laws to some extent, but it seems that the existing laws cannot respond to environmental problems and it is necessary to form a separate international organization in this field to increase its international supervision. Another assumption is that the international community does not guarantee sufficient implementation to protect the marine environment, and if it has taken measures in this field, it has been very slow and time-consuming, and it could not be able to achieve its desired goals. There is still a long way from reaching its goal, which is sustainable development. It seems that the rules established on seas are

declining and factors such as ignoring court rulings, severe embargoes, weather disturbances, law weaknesses, economic issues, technological development, and access to missiles by militia groups have made governments face problems. Together, these reasons amplify the damage to the marine environment.

2. The Importance of Protecting the Environment in Islam

As a universal and comprehensive religion, Islam claims that it responds to the changing needs of man in an era and has rules and regulations for all its relationships and affairs. Of course, this does not mean that there is a special ruling for every subject with a special and common title today. Rather, there are generalities, principles, and rules in Islam from which it can rule on any issue that can be obtained. This section shows the importance of protecting the environment in Islam to two basic issues, first is the sanctity of nature and the method of protecting it, and second is the principles and basics of the environment.

3. The sanctity of nature and the method of capturing it in Islam

The wise God has given countless blessings to his successor, man, and placed him as his trustee on earth. For this reason, he has asked him for the development and settlement of the land, and after that thanks for enjoying blessings. Nature is God's great blessing, which He has graciously given to man to fulfill his needs, while by seeing the beauty of it he will be refreshed. Earth, sky, water and soil, plants, and seeds have been considered blessings. Indeed, in the teachings of Islam nature is given special attention by the divine book. In the Quran, the category of conquering nature and its resources has been mentioned more than 23 times, while the revival of nature has been discussed 18 times. It leads man to a better knowledge of the world and the greatness of its every rule and ultimately to the knowledge of the creator of existence and his wisdom and power, knowledge and limitlessness. In other words, in the teachings of Islam, nature is one of the tools of knowledge. "Therefore, many verses of the Holy Qur'an express attention to nature as verses of "signs of divine knowledge and power" (Motaghi, 2007, p. 35). On



the other hand, Islam does not look at nature in a narrow and materialistic way. From the Qur'an's point of view, God has created nature wise and powerful. Moreover, He is busy guiding it. Our Lord is the one who created everything in himself and then guided it. He is the one who created us from the earth and left it to us. Then, he wanted us to cultivate the earth. Therefore, one of the best habits is to protect nature, while destroying and polluting it is both a sin and a punishment.

2. Principles and basics of environmental protection in Islam

Islamic teachings explain the immutable and eternal principles and the way humans contact and use natural resources in the form of explaining the values governing life. Principles and values such as maintaining balance and avoiding extravagance (4:31 and 6:6), reforming the land (7:56), and others like them make it clear that any kind of intervention in nature should lead to Islamic perfection and be far from corruption, extravagance, waste, and futility. In short, Islamic thinking strongly promotes environmental protection. In such principles of Islam, although there is no ruling on the environment in any of the Islamic sources, there are many rulings about the basic elements of nature such as water and soil, mountains, seas, etc. With their help, detailed regulations for environmental issues can be obtained. Therefore, in Islam, the protection of the environment flows in balance with the system of existence and concerning the creator of this system. Based on the environmental principles of Islam, the implementation of a sustainable and harmless development policy requires the application of basic interpretations of our criteria and values. (Mottaghi, 1386, p. 18).

Today, the main reasons for the destruction of the environment are greed, irresponsibility, and disregard for the noble values of man. According to the ecological beliefs of Islam, there is a close connection between human actions and the developmental system of life. This means that if a person does

according to nature and its creation, God's blessings will include his condition. He said: "If people believe that they had turned to piety, surely, we would have opened blessings from the heavens and the earth for them. But if they denied it, we took them back as punishment for their achievements" (7:96).

It should be mentioned that whenever a person behaves against the laws of creation, the current orderly and righteous system turns to corruption and ruins his life. We know that one of the important factors of environment corruption is one-dimensional programs in which other dimensions are never considered. In any case, the centrality of man on the earth causes that if man does not follow the will of God in his choice and is drawn to the uneven road of ignorance, blasphemy, and disobedience, it will turn into a disturbance. As God said in the Qur'an: "corruption has been revealed on land and sea because of what people have done" "Rum/141". God wants to make them taste the results of some of their deeds, maybe they will return to the right path. However, corruption in the land is a public suffering and calamity that destroys people. These ones include earthquakes, drought, famine, contagious diseases, and wars. According to Tabatabai "All this is the corruption that occurs in the sea and the land and destroys people's happiness" (Tafsir al-Mizan, 1972, p. 292).

Another practical environmental principle of Islam is infidelity and thanksgiving. According to this principle, blasphemy does not only mean that a person is ungrateful to God. The word for any kind of negative exploitation and misuse of blessings is blasphemy of blessings. In this regard, the Quran said, "Act ...Thankfully" (34:13), which indicates that gratitude is greater than "deed" and true gratitude will be possible through human actions. Perhaps for the same reason, the Qur'an has underestimated the number of truly grateful people.

One of the other principles of Islam is that heaven and earth are based on justice and injustice, and these are two basic criteria for distinguishing virtues and vices from good and evil. According to the Holy Qur'an "... God commands you to be just and benevolent" (16:90). Based on this, no person or



group is allowed to exploit nature and its God-given resources in such a way as to upset the existing balance or restrict the working and living space of others. Therefore, man's possession of such facilities is the reason for his responsibility towards nature and the world of creation. Wrong decisions and irresponsible human actions can sometimes cause irreparable damage to the balance of environmental health. It is certain that eventually, the reaction of such damages directly or indirectly affects humanity.

3. International environment in Islam

1.3. Environment according to Quran and Sunnah

The main source of Islamic teachings about the environment is the Holy Quran, in which the basis of communication between humans and the natural world is clearly stated. After that, there are hadiths and narrations of "Sunnah" in which the behavior of humans with nature is mentioned. Sunnah means the words, behavior, and speech of the innocents, which is carefully the theme of mass narratives that express the quality of interaction with animals, plants, trees, and the like. It turns out that the general spirit of these narrations is to create a sense of responsibility towards natural phenomena and the creatures around them. Ansarian (2017) mentioned, "Observe divine piety in God's servants and cities because you are responsible before God even for houses and animals" (p. 167). Or Majlisi (1070) mentioned, "Why did you destroy this and develop the other, and why did you not worship God in it, and the question of why you left them hungry and caused them pain and did not respect their rights" (p. 290). Although the environmental law did not come as a law or a separate part of the Sunnah independently (as it is in the West), several rulings have been considered in Sunnah that specifically deal with the environment and its issues recently. By looking at religious books, including the Holy Quran, the environment and efforts to protect it are necessary. By

that, a person can educate his body and soul under its shelter and reach perfection, which is the concern of Islam.

From the point of view of the Holy Qur'an, "all natural phenomena have been created for man, who is the best of all creations, so that man can properly exploit nature" (21:30). One of these phenomena is the existence of water. In the teachings of the Quran, water is one of the great blessings of God in the world of nature. In the Holy Quran, water has been mentioned a lot and the attention to the necessity of its hygiene, and cleanliness; water and its various manifestations have been mentioned more than 50 times with different interpretations; it is the source of life.

However, water is polluted by many factors in modern and civilized human life. Currently, the most important issue related to water is pollution with most of the water bodies accessible to humans, such as rivers, streams, seas, and surface water near the centers of concentration. The population has spread and the amount and variety of harmful pollutants in the water is amazing. In Environmental Geology, it is mentioned that "Natural waters such as the sea and the ocean have chemical and toxic substances that some of them are harmful to human life and other forms of life, and new agricultural industries and humans produce many of these substances in general". (Ghazban, 2001, pp. 251-252). Islam's Holy Prophet considered the people to be partners in three things, one of which is water. According to Noori (1902), "People associate partners with God in three things: fire, water, and grass" (Mustadrak al-Wasail, p. 150). He further said, "Five things that should not be forbidden including water, salt, grass, fire, and knowledge" (p.151). In addition, the oceans, seas, rivers, and water sources on the planet are all created from rainwater. The Holy Messenger of Islam said: "There is no water on earth except that which has a mixture of water from the sky and rain" (Tafseer Burhan pp. 17-24). Undoubtedly, it is forbidden to pollute water.

2.3. Environment in view of religious authorities

In Islam, religious authorities have always been those who have emphasized the comprehensive preservation of the environment with the recommendations



of jurists. In addition to them, the book, Sunnah, intellect, and consensus are the four main sources of jurisprudence. They are useful in protecting the environment during war (armed conflicts), and can be used to establish environmental protection regulations. Both general and special parts of jurisprudence were used.

4. The meaning of general regulations:

Many verses and traditions generally express the rules of the environment in the form of obligation and respect.

1.4. The sanctity of corruption on the earth

In this regard, the Holy Qur'an has repeatedly prohibited corruption in the earth. According to the Holy Qur'an "...do not corrupt on the earth" (7: 85). On the other hand, "It is better for you if you have faith. Its sign is that when they turn around, they try to corrupt the land and destroy the crops" (2:205). It shows that God does not like corruption. The point is that more than 20 verses use the word "corruption" and its derivatives are associated with the word "on earth". This word indicates that corruption on the land should have a social aspect and not be widespread. The second point is that the best reference for identifying examples is custom. Corruption in the land is discussed in Shia and Sunni jurisprudence books and it is defined as war. Mousavi-Bojnourdi (2015) mentioned, "The majority of Muslim jurists, especially in the past, believe that there is no difference between war and corruption in the world. Therefore, corruption is forbidden on earth" (p. 185).

2.4. Maintaining balance in nature:

As it is stated in the Holy Qur'an, "God has set a measure for everything" (65:3). On the other hand, God mentioned in the Qur'an: "We spread the

earth and placed on it fixed mountains, and every balanced plant in it. For those who cannot provide sustenance, and the treasures of everything are with us alone, but we do not reveal them except in a certain amount “15:19-21). According to these verses, God has asked man to observe the balance and not disturb it with his actions.

5. No harm rule:

There have been many interpretations of the “no harm rule”. However, the main meaning of this rule indicates the lack of legitimacy of damages in Islam. There is no harm in Islam. Khomeini (1989) stated, “The difference between harm and damage in the book entitled "The Messengers. The majority of uses of harm and its derivatives are financial or personal, but the use of damage and its derivatives is common in distress, negligence, embarrassment, and hardship. Therefore, harm prevails in the latter sense” (p. 33). This rule is applicable in the issue of protecting the environment and preventing its destruction, and its jurisprudential basis is considered to be legislation and law enforcement. Therefore, any kind of occupation and change in nature and human society that causes a violation of the rights of others is prohibited and rejected in Islam. According to Amigh and Hosseini (2007), “Some examples of environmental issues in a harmless form are littering the streets and sidewalks by shopkeepers, throwing out garbage, using smoke-producing cars and non-standard factories, creating noise pollution” (p. 116).

Justice has been the basis of the creation of the legal system. It is mentioned in the Holy Qur'an: “He raised the sky and put the measure and the law on it, so that you do not rebel in the measure and do not deviate from the path of justice, and set the weight based on justice and do not leave the measure low” (55:7). Fayz Kashani quoted according to The Islam Prophet (PBUH), “The firmness of the heavens and the earth is due



to justice (Tafsir Safi, 1805, p. 107). Justice means that everything is in its proper place, and justice means the right of every being, as He deserves to be rewarded. Justice is the main pillar of the universe, and God orders man to follow justice. Therefore, any use of natural resources that leads to their destruction pollutes the environment and makes life difficult for other people is far from justice and is prohibited by Islam.

6. The rule “Who owns the sheep”

This rule is used based on narrations about mortgages. In addition, the famous prophetic hadith “The exit is guaranteed” mentioned it (Ehsa'i, p. 57). According to this rule, everything that benefits must be compensated for its damage. A person who benefits from any activity must also accept the damage caused by it. For example, the builders of facilities and work houses, who in some way produce products by benefiting from natural resources, are subject to this ruling.

7. Violation of rights and duties

Right is against duty. A right is something that is for the benefit of an individual and is the responsibility of others, and a duty is something that is the responsibility of an individual and for the benefit of others. Indeed, right is not assumed without a duty. Based on this principle, God created nature and the environment for humans, and humans have the right to possess and use it, while this right exists for all humans and at all times. God has expressed this principle in the Holy Quran, “He is the God who created all the blessings on earth for you” (2:29). According to the verse, “And the earth was placed for sleep, the earth and the environment are the right of everyone and everyone has the right to use and benefit from that” (5:10). This right must be protected for the future generations. In addition to taking advantage of it, the responsibility and duty of construction and

maintenance of the earth has also been entrusted to him. He is the one who created you from the earth and left it to you to inhabit.

8. The rule of negation of aggression

This rule is based on one of the Quranic verses. According to Quran, "By God, fight those who stand against you and do not transgress, for the truth is that God doesn't like transgressors." (2:190). According to this verse, crossing the border means trespassing, and it includes any killing of civilians, prisoners, animals, and destruction of the environment during war. Therefore, if it has no military justification, it is included in the circle of aggression and trespassers". This rule is rooted in the negation of oppression, which is one of the firm principles of Islam. The extensive destruction of fields, forests, soil pollution, etc. is all cruelty to humanity and the rule of negation of aggression recognizes it as a prohibited and illegal act.

9. The principle of human dignity

The principle of human dignity is that according to this verse, " Certainly We have honored the Children of Adam, and carried them over land and sea, and provided them with all the good things, and preferred them with a complete preference over many of those We have created " (17:70). From the perspective of Islam, man is created in the best form and system, and he is the successor of God on earth. Human dignity is also considered in the Islamic declaration of human rights: "human beings are considered as one family and everyone has human dignity and equal responsibility" (article 1). The principle of dignity and human behavior is one of the fundamental principles of human rights that should not be distorted in wars, behavior such as the burning of residential houses, the massacre of soldiers, the destruction of farms and fields, and forced migration.

10. Special Rules

These types of rules are the ones such as climate, air, soil, uncleanness, growth of plants and animals, breeding of their offspring, etc.



1.10. Polluting the environment

Islam recognizes man as responsible for his habitat. Ansarian (2017) said, "Fear God in His servants and His country, for you are responsible even for the places and the animals." (p. 546). Razi (1980) also mentioned, "The Holy Prophet (PBUH) even forbade polluting the land of the enemies. He forbade throwing poison into the lands of the enemies" (p. 28).

1.1.10. Wastage

Wastage means any kind of excess. Almighty God warned many times in the Holy Qur'an against wastage, "Do not waste, for God does not love the spendthrift" (6:38). In addition, many sayings have warned believers against extravagance. The least amount of extravagance is throwing away the water left in the container, donating clothes that are needed for covering, and throwing away the waste of the fruit.

2.1.10. Self-harm

The Holy Qur'an forbids weakening and harming the body, "Do not let yourself perish by your own hands" (2:195). Islam emphasizes on the preservation and health of the body and has instructions regarding sleeping, dressing, work and activity, etc., whose compliance has a great impact on physical growth and benefiting from God's blessings. These were important cases related to special laws, which of course include other cases such as the rights of animals to the owner of animals, plants, and the prohibition of Islam against harming animals, etc. In addition, the environmental support that was issued during the war is the following:

- 1- Prohibition of burning plants and gardens
- 2- Prohibition of burning fields
- 3- Prohibition of killing cattle and animals

4- Prohibition of killing old men, women, children, prisoners and civilians

2.10. The rule of peace and avoiding bloodshed

Today, no one can deny the harmful role of international and regional wars. A war that leaves bad effects on human life and the environment. In Islam, maintaining peace and avoiding conflict and bloodshed is more important than any other school. To the extent that killing a human being unjustly is like killing the whole world. In religious teachings, establishing peace and reconciliation between people is higher than years of prayer and fasting. Islam's commitment to peace and international law and rules to peace is an encouragement to protect the environment and lead a good human life.

3.10. Environment in terms of international law

In international law, one of its new branches is international environmental law, which aims to protect and support life and various species of plants and animals, oceans, seas, air and soil and in general God-given nature. Taghizade and Ansari (2014) mentioned, "Environment rights, although it is part of the branch of domestic law, has become a trans-national, cross-border and international problem" (p. 203). On the other hand, modern war techniques may have great effects on the environment, and in addition to modern techniques, "modern weapons" may be intentionally used for hostile purposes. Modern weapons may permanently destroy the growing areas of plants by heavy bombardment, and it is possible to change the quality of the soil and make it unproductive for many years. Moreover, this may lead to the destruction of human life, animals and plants. The use of natural phenomena can be mentioned as artificial adjustments of weather, rainfall changes such as cloud fertilization, creation of artificial earthquakes, deadly waves and lightning changes. Arjmand (1994) mentioned, "Although the first conventions related to environmental protection date back to the early 20th century, the real roots of international



environmental law should be found in the late 1960s” (p. 329). During the war, there are legal rules and regulations to protect the environment, and these rules are of two types. First, the general rules that are of general interest, whether during war or peace, and then the rules and principles introduced in armed wars. These two types of rules came centuries before the formation of humanitarian principles and rules in Islamic principles, which will support the environment and its related issues. These rules appear in international agreements and declarations. Farshchi (1998), mentioned “the West came to this conclusion after leaving behind the medieval wars and the industrial revolution, and then the International Court of Justice in issuing the judgment of the fishing territory of England and Germany against Iceland on July 25, 1974 considered this principle” (p. 56).

11. The international sea laws

The importance of seas and oceans in transportation, energy supply, consumption of huge mineral resources and their contribution in establishing environmental balance is obvious to everyone. Every day, many activities has been done on the planet, which have a direct impact on the environment. In general, the harmful effects of environmental destruction will affect the entire human society, including the current generation and the future ones. The marine sector, like other sectors of the environment, has been a victim of human exploitation, while this exploitation takes place without considering the capacity and power of this part of the environment. For a long time, the geographical extent of the waters and the lack of transnational power to protect the ecosystem has been the main factors in the destruction of the marine environment due to human use. The geographical diversity of different marine areas of the

world and the diversity of marine polluting sources have complicated the issue and have had a negative impact on the efforts that have been made for the correct and regular use of waters and oceans. Barzegar (2018) mentioned, "For this reason, the draft plan of crimes against human peace and security, approved on January 19, 1991 considers severe intentional damage to the environment as one of the crimes against human peace and security" (p. 19). The rights of international solidarity considered and recognized by the constitutions of many countries, and in fact, the right to the environment was approved in the first principle of the Stockholm 1972 Declaration. Shahdad Nejad et al. (2019) said, "The relationship between human rights and protection of the environment is one of the definite issues that was established in the Stockholm Conference" (p. 71). The right to a healthy environment as a basic and fundamental right has opened its place in the set of human rights, while it counts as a part of the right to a standard life, health, and fresh air. Shahdad Nejad et al. (2019) added, "Moreover, cultural characteristics have been noticed and expanded within the first generation of humankind, and the right to the environment is recognized as one of the main human rights" (p. 71). In addition to this, the Convention on the Sea Law opened a new field in the protection of the marine environment, whose provisions are mainly compiled in 12 sections. This convention is the most powerful and comprehensive environmental treaty that currently exists. Protecting the environment of seas and oceans in international law is a relatively new issue and it still has a long way to go to achieve its goals.

12. The position of marine environment in international law during wartime

Habibi (2007) said, "The marine environment, including oceans, types of seas, including closed and relatively closed seas and adjacent coastal areas, forms a harmonious complex that is the main part of global life and support system, and is a positive capital that provides opportunities for sustainable development. (p. 135). In today's world, seas are an important life factor



for nations, and there is no coastal country that does not have interests in the sea. Seas and oceans are important and strategic communication routes for countries. The sea is a road that, although it does not need to be built, it is necessary to be maintained. Today, with the development of science and technology, the real importance of the seas has become more apparent to humanity, and the variety of sea services for human life in different dimensions has brought valuable benefits and services. Zamani (2000) mentioned, “The importance of seas for human life in terms of transportation, fisheries, biodiversity, marine habitats, marine living resources, energy supply, regulation of the Earth's climate, minerals, scientific research, food supply, socio-economic goals, growth, development and having huge resources and their contribution in establishing the ecological balance of the people is obvious” (p. 56). In the last few decades, the sea and oceans have been facing with various problems. Habibi (2007) said, Territorial disputes, war and insecurity, global climate change, habitat destruction, species borrowing, pollution, overcrowded shipping lines, illegal traffic, piracy, terrorism and the collapse of coastal communities are among these cases (p. 78).

During the last three decades, the United Nations Environment Program has had many activities to establish regional cooperation in marine environments and coastal areas. In fact, with the increase of treaties, conventions and protocols in support of the international environment with a cross-border and global vision. Taghizade (2013) said, “Governments have regulated almost 1000 documents in this field, which with the growth of international environmental law has led to the approval of many resolutions through the General Assembly and the Security Council and other specialized bodies of international organizations. But the global support for the nature of the environment is scattered in the world in recent phenomena” (p. 79). They have reflected some of the most important laws

and treaties related to environmental protection. However, most of these rules are still in the field of soft law and do not have the necessary enforcement guarantee. For this reason, in addition to international laws and documents, it is necessary to use all available capacities, including the teachings of Islam, which is a path-breaker in this field. In this way, two categories of laws and regulations have dealt with the protection of the environment during wartime; the first category is the provisions of international environmental law, both in peacetime and in wartime, which are used to protect the environment. It means the prohibition of destroying or harming the environment is in conflicts in war, which is the subject of the rules of international environmental law. Shafiei and Hanjani (2012) mentioned, "The second group of humanitarian rights, some of whose provisions have an environmental aspect are applied in times of war" (p. 163).

Among the international documents, World Charter for Nature (1982) was approved by the United Nations and has a great significance. Accordingly, Heimann (1972) mentioned, "Nature shall be secured against degradation caused by warfare or other hostile activities" (p. 102). By less importance are The Hague Conventions, the Geneva Convention of 1949, the First Additional Protocol to the Four Geneva Conventions of 1977, the Statute of the International Criminal Court and the ENMOD Convention.

The conditions for establishing international responsibility in international environmental law at the time of international conflicts are based on the following four cases:

1. Violation of an international environmental obligation during international hostilities and war,
2. The occurrence of a material, physical environmental damage above the level of the international standard in case of violation of the intended environmental obligation during war and international armed conflict,
3. Establishing the relative relationship between environmental damage and the violation of the desired environmental obligation during international armed conflicts,
4. "The



possibility of assigning violations of the environmental obligation to the government during war and international conflicts” (Mir Abbasi, 2019, p. 140).

A method of naval warfare that governments use is the use of naval blockade, which dates back to the 16th century, when the Paris Agreement of 1865 was concluded after the Crimean War. Further developments of the naval blockade as a method of naval warfare began with the London Naval Conference of 1908-1909, which issued the London Declaration, and continued with the 1994 San Moore Declaration. Naval blockade is a method of naval warfare that is implemented only in international armed conflicts, and this issue is emphasized in the Declaration of London and San Moore. This war method is used in many international conflicts, including the Korean War, India-Bangladesh war, the Iran-Iraq War, the blockade of Yugoslavia by NATO forces, or during civil wars such as the naval blockade of East Timor by Indonesia and the latest example of the siege of Gaza by Israel. In addition, Ziyaei and Mohammadi Mutlaq (2014) said, “The United States enacted a law known as the Law of Trading with the Enemy, which includes only the governments with which it is an enemy and is in a state of war with them in a list” (p. 40).

13. Legal loopholes in marine environment protection

There are many legal gaps in the protection of the marine environment, such as the failure or ineffectiveness of international regulations, the silence of these rules, the inadequacy of administrative law mechanisms in environmental protection, the weakness of civil liability rights in Environmental protection. A concrete example regarding the ineffectiveness of international rules for the construction of artificial islands in different sea areas is that the conditions for these types of constructions stated in the 1982 Convention on the Law of the Sea.

Karimipour et al., (2015) said, “Therefore, because the coastal countries have sovereign rights in their territorial sea, there is no prohibition in the Convention on the Law of the Sea regarding the construction of artificial islands in this area”, “Therefore, the Convention on the Law of the Sea has failed to prevent the destructive environmental effects of these islands. It doesn't have polluting effects and it is silent in this issue” (Karimipour et al, 2015, p.186).

The civil liability system in protecting the environment, especially the marine environment, faced with shortcomings, and the rights of civil liability are based on the impermissibility of harming others. “According to the civil liability law, people should be responsible for the full compensation of the damage if they cause damage to others” (p.186). The aforementioned liability refers to unintentional damage caused by carelessness, negligence, or accident. As a result, civil liability rights are not suitable for responding to damages caused to others (Karimipour et al, 2015, p.186). mentioned, “In cases of deliberate emergency, if we just accept compensation and deny the necessity of criminal rights, we allow the polluters of the marine environment to cause damage to others intentionally, while we need to taking into account the payment of compensation to the victims of these actions”.

Another legal gap in the field of marine environment is the problems caused by the implementation of conventions related to marine environment. It requires the creation of additional equipment, the prevention of pollution, and the application of special regulations and controls, which are accompanied by relatively severe economic, technical, and political problems. Therefore, the implementation of these conventions has caused an increase in costs for marine owners. Of course, due to the transboundary nature of marine environmental pollution, governments do not show much desire to invest and accept more difficult regulations and standards to prevent sea pollution, because if they accept such conditions, marine industries will lose the ability to compete with other countries'



industries. On the one hand, developing countries consider advanced countries to be the main culprits of sea pollution, and on the other hand, preventing pollution requires high levels of technology, “Establishing standards that did not match the technical knowledge of the time seemed to be a futile task”. In addition, such problems at the international level and the process of developing conventions to prevent sea pollution continues and international organizations have not made much effort to remove trivial regulations and create more detailed regulations(Safarzadeh et al, p. 511).

14. The principle of international obligation and the responsibility of governments due to the violation of marine environment obligations

Some general provisions related to the obligations of governments in preventing pollution and protecting the marine environment are found in Article 24 of the 1958 Convention on the High Seas and 1958 Convention on the Continental Shelf, following with the environmental disasters of the 1960s and 1760s, including the explosion of the Ekofisk oil well, SS Torrey Canyon shipwreck, etc. A deep understanding and recognition in this field brought the necessity of international cooperation between governments in protecting the environment. This is because it led to the adoption of International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 and 1973 protocol relating to intervention on the high seas in cases of pollution by substances.

The UN Conference on the Human Environment in Stockholm in 1972 adopted a declaration that established principles for action by countries. In general, it can be said that about 60 articles of the Convention on the Law of the Sea are dedicated to the protection of the marine environment. At present, there is no specific area of international law that considers the responsibility of governments for the damage to the marine environment

during wartime. However, the general rules of government responsibility are applicable. On the other hand, the rules of responsibility of governments are applied without any stop during wars. The International Law Commission has prepared a set of draft articles on the responsibility of states against fair international acts (2001, article 1), which includes the fundamental rules governing the responsibility of states that every international wrongful act of a state entails the international responsibility of the state. First, the illegal act of a state is when the behavior including an act or omission can be attributed to that state based on international law. Then "establish the violation of the international obligation of the state". This means that a state is responsible for the violation of an obligation stated in a treaty or in customary international law. It seems that the prohibition of extensive long-term and severe environmental damage in war and the obligation to pay full attention to the environment were considered as part of customary international law at the time of its formation. Therefore, it seems that the violation of any of the obligations in armed conflict regarding the marine environment can create the responsibility of the governments and that the regulations related to the protection of the environment during armed conflict are important. As a result, there is a greater possibility of violating them. Although it is theoretically possible that as long as such a situation prevails regarding the aforementioned substantive rules, it is rarely possible to resort to the provisions of government responsibility.

Conclusion

In the teachings and religion of the prophets, especially in the teachings of Islam, environmental issues and protection of the environment during war are mentioned and discussed in Islamic texts. Nature and its elements are the subject of special care in the divine book, and in the Holy Quran, the category of conquering nature and its resources, as well as reviving nature, has been discussed many times.



The nature and the elements of the laws that govern it are mentioned in Islamic teachings as divine verses, in which contemplation and reasoning lead man to a better knowledge of the universe and its greatness and lawfulness, and finally to the knowledge of the creator of the universe, his wisdom, power, and unity makes In fact, nature is one of the tools of knowledge in Islam. By expressing immutable and eternal principles, Islam clarifies the way of human contact and the use of natural resources in the form of explaining the values governing life. Principles and values such as "maintaining balance", "avoidance of extravagance", "land improvement" and the like specify that any intervention in nature should be completely reformed and should be far from corruption, extravagance, waste, and futility.

In the religion of Islam, its religious teachings aim to educate man and guide him through the service of God, and whenever people follow these teachings, many environmental problems that we are facing now will disappear, such as respecting the rights of others and avoiding extravagance. Islam considers the individual and the Islamic government to be responsible for the environment. On the one hand, every member of society is responsible for the environment, and on the other hand, the Islamic government is obliged to guide and oblige the people and groups who behave against the environmental norm to behave according to the norm. The environmental teachings of Islam existed before the formation of international organizations, and with the arrival of the Industrial Revolution in the West opinions of the International Court of Justice were formed to protect the environment, especially in times of war and conflict. War as a human act has caused extensive destruction of the human environment and other living beings. Following environmental protection during the war, there are two types of laws and legal regulations to protect the environment. First are General rules that are of general interest and be

used in times of war and peace. By "International laws" we mean the prohibition of destruction during conflict and war. International laws' effect on environmental protection in times of war are considered critical conditions compared to times of peace while they lose their validity. The second category is armed war laws, which include treaties that have been compiled and approved in connection with the protection of the environment during war, such as the Four Geneva Conventions of 1999. However, there is no specific field of international law that has currently taken into account the responsibility of governments against the damage to the marine environment during war. Although the United Nations has done many activities to establish cooperation in the marine environment and coastal areas through increasing the treaties, conventions, and protocols in the protection of the international environment with a cross-border and global vision, natural global protection has happened sporadically in the world and is still in its infancy. Most of these rules are still in the field of soft law and do not have the necessary enforcement guarantee. These laws will be implemented and the desired result will be achieved when an independent and separate international organization is formed in this field and it conducts and increases its international supervision in the form of visas.

In addition, cooperation between countries to implement international laws and promote public awareness about the importance of protecting the marine environment can solve environmental crises. For this reason, in addition to international laws and documents, it is necessary to use all the available capacities, including the teachings of Islam, which are pioneering in this field. Therefore, by observing Islamic principles and teachings adhering to international laws, and creating a regulatory body such as the International Criminal Court, protecting the marine environment will be possible and accessible.

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