

**CRIMINAL POLICY IN IRAQ TO FIGHT ENVIRONMENTAL
POLLUTION CRIMES**

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Abstract- One of the main challenges for the protection of the environment in Iraq from pollution, is the difficulty of determining criminal responsibility of the offenders of crimes of environment pollution, which infringes the axis, which occupies the criminal. Therefore, a set of procedures and legal punishments must be available to control environment pollution crimes. In every crime, a series of legal proceedings following the crime should be taken into account starting from the place where the environment pollution took place passing through an investigation to unveil, arrest, trial and execute the sentence against the offender. The Iraqi legislature acknowledged the dangers of environment pollution and issued procedures and laws to protect the environment and control the pollution. These legislations are strengthened certain punishments imposed on the offenders so as to achieve general and private deterrence, remove the effects of environmental violation and restore the situation. This paper discusses the concept of public criminal responsibility in accordance with Iraqi legislation of the Iraqi Penal Act No. 111 of 1969, as well as Protection and Improvement of the Environment Act, Law No. 27 of 2009, and determine the criminal responsibility of the offenders in the environment pollution offenses under this legislation. As well as a statement of the negative effects of the U.S occupation on Iraq, and its impact on the pollution of the Iraqi environment through using internationally forbidden weapons in 2003. For this purpose, the adoption of the qualitative method of research that has consulted primary and secondary sources. In this way, where there has also been conducted personal interviews of people involved in the judicial and academic career criminal, ultimately, the study found that there are many legal issues and constraints, such as the weakness of Iraqi laws and legislation in the field of environmental protection and multiple sources of pollution of the environment in Iraq, has caused a slowdown in addressing these constraints which significantly affect in determining the responsibility of the offenders of the crimes of environment pollution.

Keywords- Criminal policy, Environment pollution, Crimes, Penalties, Iraq.

I. INTRODUCTION

The rapid scientific development and great competition among the countries to develop their products and weapons of war have led to various environmental problems. Environment pollution is considered to be one of the most serious environmental pollution which is of concern to many countries and individuals. Environment pollution can lead to a variety of diseases such as diseases of the respiratory system, including asthma and lung cancer. In addition to that, the burning of waste material in the neighboring areas and the stench caused by

environment pollution have made many countries realized the importance of protecting the environment against pollution and its significance for mankind.^[1] Environment pollution has become a great problem in Iraq and is of great concern to its people due to its negative effects on the quality of life. Environment pollution reduces renewable and non-renewable natural resources and is a major threat to the life of future generations. Environmental experts agree that the current environmental problems in Iraq are the result of the three great wars, whereby all kinds of internationally prohibited weapons were used by Saddam Hussein and the previous Iraqi regime. The effects of the Second Gulf War on the environment in Iraq and other neighboring countries in 1991 has been claimed to be as great as the environmental pollution that resulted from the explosion of the Chernobyl nuclear reactor in the Soviet Union in 1986.^[2] The Second Gulf War resulted in serious damage to the coastal areas of some countries and this has led to global warming and the pollution of water and environment due to massive oil leaks and widespread fires in the oil wells. The estimated volume of oil leakages from the shipping stations and sunken ships is about 8.4 million barrels. It is worth noting that the environment was not just affected by one kind of pollutant, but there were also radiological, chemical and electromagnetic pollutants. This accident had an adverse effect on the lives of the people, especially those residing in the affected areas.^[3]

Besides that, there are also other serious environmental crimes that have been committed in Iraq. These crimes include the burning of solid remnants, and trafficking of toxic waste and hazardous chemicals, including the storage and illegal dumping of these dangerous chemicals. The indiscriminate burning and careless handling of dangerous pollutants have contributed to the pollution of the environment and have endangered the lives of people and living creatures in the area.^[4] Additionally, individuals or institutions have established people or oil installations

¹ Amar Turkawi, "The State's Responsibility for Damage and Environmental Pollution." (Paper presented at Third Arab Conference on Environmental Management, Egypt, November 21-24, 2004), 44.

² United Nations Scientific Committee on the Effects of Atomic Radiation "The Chernobyl Accident", UNSCEAR, 2008. Accessed on July 19, 2017, <http://www.Unscear.org/unscear/en/chernobyl.html>.

³Jenn David, *Electromagnetic Radiation Hazards* (U.S.: Naval Postgraduate School, 2009), 11-25.

⁴ Ali Musa, *The Environmental Pollution*, 2nd ed. (Beirut: Dar Fekr AL Mua'acer, 2000), 17.

that are devoid of the most basic means of environmental safety near to heavily populated cities. It should be noted that these installations have contributed to the spread of toxic dust and discharge of toxins into the environment. It has caused the occurrence of acid rain which risk the public. Furthermore, acid rain can damage plants, relics and historical and natural landmarks.^[5] At the moment, Iraq has two laws that deal with environment pollution issues. The first is the Iraqi Penal Code, Law No. 111 of 1969 that governs all crimes, whether they are environmental or ordinary crimes. Secondly, a special law of the environment, known as the Protection and Improvement of the Environment Act, Law No. 3 of 1997 which was amended by Law No. 27 of 2009. Many of the provisions under this law are for the protection of the environment from environment pollution crimes and the protection of individuals and cities by criminalizing acts that constitute an assault on the environment. Furthermore, the offenders of these crimes are punished, under criminal law, whether they are natural persons (individuals) or corporate bodies (institutions). It has been found that these two laws constitute the foundation to deal with the issues of protecting the environment from environment pollution crimes, and which are applied by criminal courts in Iraq to arrest and punish the offenders of environment pollution crimes.

II. CRIMINAL PROCEDURES FOR ENVIRONMENTAL POLLUTION

Criminal procedures is “a set of rules governing the conduct of criminal action arising from the criminal incident from the moment the crime is committed until the time of issuance of the court ruling and its enforcement”. This definition indicates that the adopted criminal procedure, after the crime of polluting the environment, is based on three fundamentals. The first is to take legal action against the criminal conduct to claim the right. The second is connected with the concept of evidence in the criminal issues.^[6] Also, it has to do with

⁵ Salim Matar, “Disasters and the Problems of the Iraqi Environment,” *Encyclopedia of the Iraqi Environment* 21, no. 1 (2010): 148, accessed August 12, 2017, http://www.emadhani.blogspot.com/2012/05/blog-post_6838.html.

⁶ Kaufman R, “Criminal Procedure in England and the United States Comparisons in Initiating Prosecutions,” *Journal of Fordham Law Review* 49, no. 1 (1980): 26-39.

understanding how the judge can be convinced to find the accused guilty. The third is the judicial system which is entrusted with the task of adjudicating the criminal issues. According to the UK Procedure and Investigations Act of 1996, criminal procedure is “a set of measure or steps that provide a mechanism for the investigation of all criminal offenses, arrest of the accused or criminal suspects, gathering of evidence, determination of guilt or innocence of the accused, and imposition of appropriate punishment for the commission of a crime ”.^[7]

On the other hand, the U.S. legislator defined it, as contained in the code of criminal procedure enacted in the year 1966, as “a set of procedures governing the administration of justice regarding the issues of environmental pollution, including the procedures that should be followed by the government in the case of environment pollution, starting from the initial investigation of individuals suspected of criminal activities, through the arrest and arraignment, investigation, hearing in a court of law, bringing the accused to justice, investigations before judgment, seeking for punishment in the event of conviction, and putting the culprit under probation and parole procedures ”.^[8] In the same context, the Iraqi legislator defined it, as contained in the Criminal Procedure Code No. 23 of 1971, as “a set of rules governing the conduct of criminal action arising from the issues of environmental pollution from the moment the crime is committed until the time of issuance of the court ruling in respect of the suspect and the enforcement of the court ruling”.^[9]

2.1 Investigation of the Crime of Environment Pollution

When an environment pollution crime occurs, the relevant state authorities start to take all the appropriate actions to inspect the crime and collect evidence. If there are sufficient evidences to support the case, the offenders of the alleged offense will be arrested and interrogated. They will then be tried in a court and if found guilty the court will mete out the necessary punishment on the offenders. The judicial officers department will immediately take

⁷ UK Criminal Procedure and Investigations Act 1996. Ministry of Justice, October, 2014. Accessed April 15, 2017, <https://www.gov.uk/.../cipa-1996-code-of-practice-consultation.pdf>.

⁸ Orfield, B, *Criminal Procedure under the Federal Rules* (U.S.: Lawyers Co-operative Publishing Company, 1966), 32.

⁹ The Iraqi criminal Procedure Code No. 23 of 1971, Iraqi Legal Database, May 31, 1971. Accessed March 28, 2017, http://www.iraqld.iq/identity_search.aspx.

all the necessary measures to uncover the truth about the incident. The police will collect preliminary information of the crime and arrest the alleged criminals to assist the investigation authorities, to do its' work in order to trigger a criminal case, so that the state may use its rights to secure a punishment and highlight the breach of the country's regulations and laws.^[10] When crimes that harm the environment occurs, like all other crimes in Iraq, the rules of procedure that is prescribed in the Iraqi Criminal Procedure Code, Law No. 23 of 1971 shall be applied. Environment pollution crimes are in reality unique in their nature. Moreover, these crimes are purely technical and not easy to detect and prove. Unlike other traditional crimes, only specialists and qualified persons who have adequate expertise are able to detect and prove the occurrence of these crimes, and to ensure the successful prosecution of the offenders.^[11]

The judicial officers department is one of the most well-known system in contemporary legislation. The court itself is unable to investigate crimes and gather all the necessary information about it and the alleged offenders because of the large number of tasks it has to perform. Therefore, the state created a system to assist the investigation authorities and help them to perform the functions and spare them the hassle of searching, investigating and collecting evidence of the crimes, and arresting the alleged offenders.^[12] The territorial competence of the judicial officer is stipulated in Article 39 of the Iraqi Code of Criminal Procedure No. 23 of 1971 stipulates the territorial jurisdiction of judicial officers and divided it into three areas: 1) the venue where the crime of environment pollution occurred, 2) the place where the offender resides, and 3) where he was arrested. If any of these places is located within the jurisdiction of the judicial officer, the latter would have performed his mission rightfully and within the scope of his authority even though the procedure is carried out in another place away from his territorial competence .^[13] The judicial officers are affiliated to the executive authority,

¹⁰ Jennifer Norberry, *Australian Pollution Laws: Offences, Penalties and Regulatory Agencies* (Australia: Australian Centre for Environmental Law, 1989), 11-15.

¹¹ Mohammed Ameen, *Criminal proceedings in the Environmental Crimes* (Cairo: Dar AL- Jamiat Jadida Nashr, 2001), 9.

¹² Newburn Tim, Tom Williamson, & Alan Wright, *Handbook of Criminal Investigation* (U.S.: WILLAN Publishing, 2012), 122-248.

¹³ Fawzia Abdul Sattar, *Explaining the Code of Criminal Procedure* (Cairo: Dar Al Nahda, 1986), 255

therefore they are affiliated administratively and are subject to the supervision of their superiors. But, functionally they are under the authority of the public prosecutor and are subject to his supervision with regards to their job as judicial officers. This is in accordance with the provisions of Article 40 of the Iraqi Code of Criminal Procedure, Law No. 23 of 1971 which stipulates that “the judicial officer is affiliated to the public prosecutor and subject to his supervision with regard to his activities. The public prosecutor may request the competent authority to examine the case of every person who breaches his duties or neglect his work, and he may request to carry out punitive criminal proceedings against him. This does not prevent the submission of a criminal case.”^[14]

One of the problems faced by judicial officers in the detection of environment pollution crimes in Iraq, translated as impeding the enforcement of environmental legislations, which has consequently resulted in increased pollution and deterioration of the environment, is the problem of lack of resources available to judicial officers in general. For example, the lack of equipment, tools and mobile laboratories to conduct the necessary investigation and evidence to control environment pollution crimes. It also includes the lack of cars equipped with facilities in order to help the judicial officers to reach the crime scene as soon as possible. The institutions concerned with environment in Iraq also have very limited budgets and this is reflected by the poor living standards of the judicial officers. The shortage of funds has also affected the performance of judicial officers as there is no budget to send them for specialized training to enhance their skill and enable them to use modern appliances in order to help them to be more effective in monitoring and reducing incidences of environment pollution.^[15]

When asked about the negative impact due to the lack of equipment, tools, laboratories and expertise in the detection of environment pollution crimes in Iraq, one of the respondents interviewed agree that Iraq was still suffering from an acute shortage of all the means that are necessary to combat the said crimes. He emphasized that this is especially with regards to radioactive contamination caused by depleted uranium shells and remnants of the Iraqi war that

¹⁴ Mohammad Awad, *The General Principles of the Code of Criminal Procedure* (Egypt: Munshaat AL-Maarif, 2002), 22-24.

¹⁵ Nasser, Jurani. “Environmental Crime and Sanctions Prescribed.” *journal of Dhi Qar literature* 1, no. 2 (2010): 178.

the U.S. used in Iraq during the occupation in 2003. The non-allocation of equipment and technical resources to address and combat these crimes can be imputed to the Iraqi legislator. It should have allocated physical and technical resources to combat these crimes or build up public and private laboratories to help in combating this type of pollution. He suggests that the state should play an active role to reduce environment pollution crimes .^[16]

In the same context, another respondent agreed that the facilities necessary for the detection of environment pollution crimes such as laboratories, monitoring equipment and other technologies are not enough due to financial position of the Iraqi government. The available procedures and equipment became outdated and spoilt, and most of the laboratories distributed across Iraq stopped working due to the lack of financial allocations for their maintenance. Besides that, it also led to the difficulty of forming committees to investigate and detect contaminants. These conditions led to more deterioration of the environment in Iraq.^[17]

On the contrary, in the U.S., according to the Clean Environment Act of 1991 stipulates that the Environmental Protection Agency (EPA), which specializes in investigating environment pollution crimes, should be provided with all the necessary equipment and tools, and advanced fixed and mobile workshops. All of these should be provided by the government. The Government should also provide funds to members of the technical teams to acquire higher levels of expertise in detecting and investigating environmental pollution crimes. It also stipulates the establishment of a center specializing in the investigation of environmental pollution crimes in cooperation with the U.S. Ministry of Justice and having broad powers in investigation and inspection to unveil environmental crimes.^[18]

One of the respondents, who was interviewed, agrees that if this type of crime occurs in developed countries such as the U.S. and UK, the body responsible for the investigation will use high-tech means such as modern equipment, machineries and laboratories. But in Iraq, although the text of the Iraqi Protection and Improvement of the Environment Act, Law No. 27 of 2009

¹⁶ Amer Zugheir, (2017, December 16). Iraq: Personal interview.

¹⁷ Ihsan Abdul Amir. (2017, February 5). Iraq: Personal interview.

¹⁸ Devaney EARL E., "The Evolution of Environmental Crimes Enforcement at the United States Environmental Protection Agency," Third International Conference of Environmental Enforcement, 1994. Accessed May 10, 2017, <http://www.inece.org/3rdvol1/pdf/devaney.pdf>.

stipulates the need for high-tech devices relating to environmental crimes, Iraq in fact lacks this kind of equipment and expertise. In fact, the results of laboratory analysis may take several months and this has led to the loss of evidence to prosecute offenders of this type of crime.^[19]

Directed the judicial officers to the crime scene is a very important task to the applying the environmental law, because environment pollution crimes require to be recognized many of actions to be taken by the judicial officers to at the scene of the crime itself, as well as collection of information, which may be used in studies and researches carried out by bodies in charge of the environment, helping them to find solutions and proposals to prevent the recurrence of such incidents in the future.^[20] The judicial officers while moving to the crime scene may perform necessary inspections, according to article 40 of the Iraqi Code of Criminal Procedure No. 23 of 1971 and to do the inspections as this is a necessary measure to help him uncover the truth. This law authorized the judicial officers to take precautionary methods to preserve the evidence of the crime from being tampered and from sabotage and destruction, since there is no law that prevents judicial officers from doing seizing elements, and putting them under seals in crimes of environment pollution. The judicial officers having special competence in charge of applying the provisions of environmental laws shall as soon as they received any notice about the existence of an environmental offense, to go to the scene of the crime, whether in an industrial enterprises or corporations or anywhere else, and carry out investigations, collect all information, sampling, measuring and performing tests relating to the incident, subject-matter of the crime, and find out the reasons that led to environment pollution.^[21] In order to do so they can take information or data from responsible of the corporation, where the crime occurred, or its employees or individuals, and are entitled to access to existing records at the place of accident, and examine data recorded in the same, in addition to their right to conduct necessary inspections at the crime scene and do inspections regarding the environmental situation at the

¹⁹ Ali Abdul Imam, (2017, December 23). Iraq: Personal interview.

²⁰ Ignacia Moreno, "Introduction to the Environmental Crimes Issue of the USA Bulletin," *The Executive Office for United* 60, no. 4 (2012): 5- 44.

²¹ Raef Labib, *The Procedural Protection of the Environment from the Control to the Trial* (Cairo: Dar Al-Nahda AL Arabiya, 2009), 234.

crime scene to clarify the reasons that led to the occurrence of the crime of environment pollution.^[22]

The judicial officer faces many obstacles when entering the environment pollution crime scene and this often hinders his work. When reviewing the Iraqi Environment Protection Act of 2009, it does not contain any direct and explicit provisions that entitle judicial officers to have special competence to enter a public workplace when their presence is required. The law also did not specify the time to visit these places in general, even in the case existence a crime requiring their presence. Article 43 of the Iraqi Criminal Procedure Code of 1971 authorized judicial officers to confirm the crimes. This implies that the legislator wants this matter to be settled by the use of the general rules in the Criminal Procedure Code. Consequently, the judicial officers shall have the right to access the above-mentioned places during non-working hours or even during public holidays, as long as there was an environmental crime has been committed.^[23]

On the contrary, in UK, Article 108 of the Environment Act 1995 states that an officer, who is affiliated to the Environmental Protection Agency (EPA), the body that is responsible for the investigation of environment pollution crimes, has a wide range of powers to investigate and carry out an official inquiry. This law allows the investigative authority to enter suspected buildings at any time provided that they are not residential buildings. This law also authorizes investigations, including sampling, measurements, photographs and the interrogation of individuals in order to uncover the truth about the crime relating to environment pollution. In case of emergency, the investigating authority can obtain legal license to forcefully gain entry into the premises where environment pollution crime is being committed every time.^[24]

One of the judges, who was interviewed, confirms that the Iraqi Criminal Procedure Code of 1971 gave the right of entry to the judicial officers concerned upon the receipt of a

²² Labib, "The Procedural Protection of the Environment", 129.

²³ Younis, Abdul Hakim. "Protection of the Environment Iraqi Criminal Legislation." *Journal of Rafidain Rights* 16, no. 57 (2015): 150.

²⁴ Mitsilegas, Malgosia Fitzmaurice, and Elena Fasoli, *Fighting Environmental Crime in the UK*, 53-60.

complaint or notification about the existence of an environment pollution crime. The judicial officers must head to the corporation immediately and gain entry as long as its doors are open to the public. They must then carry out their duties and implement the procedures established by law to confirm the crime and prove it. But, in a lot of cases, the judicial officers have problems gaining access to the crime scene when the crime occurs outside the working hours of the corporation, i.e. during public holidays or at night. This happens when most of the corporations that pollute the environment deliberately work at night in order to escape detection by the enforcement authorities. The judicial officers are uncertain of their next course of action, especially when the Iraqi Protection and Improvement of the Environment Act, Law No. 27 for the year 2009 did not stipulate any method or solution to resolve this issue.^[25]

2.2 Sentencing for the Offenders of Environment Pollution

The trial phase is the most important stage of the criminal proceedings against the offenders of environment pollution crimes because at the end of the trial the defendant shall be either convicted or acquitted. The transfer of the criminal proceedings concerning environment pollution by the investigating authority to a court of law is so that a legally valid judgment can be issued. The investigating authority must prove the guilt of the accused with adequate evidences in support of the crime and attribute the same to the accused. However, procedural legitimacy requires that the trial court must be convinced of the validity of the evidence and the same is attributable to the accused. This can only be achieved after providing to the accused all the necessary means and guarantees to defend himself in a fair and equitable trial pursuant to the significant constitutional rule fostered by Article 19 of the Iraqi Constitution of 2005. The said Article 19 stipulates that “the accused is innocent until proven guilty in a legal trial in which he is given guarantees to defend himself”.^[26] For the court to have a better understanding of environmental issues or to prove that an environment pollution crime has been committed and by whom, the judge needs to get experts in the latest and relevant scientific fields to assist him to come to a just and fair decision. The need to use modern methods to solve crimes is

²⁵ Saad Badr, (2017, January 4). Iraq: Personal interview.

²⁶ The Iraq Constitution of 2005. Journal of Iraqi Facts 4012 (2005). Accessed, April 13, 2017, <http://www.iraqld.iq/Laws ReferenceSearch.aspx>.

caused by criminals resorting to new scientific methods to conceal evidences of their crimes. A prominent example of such crimes is environment pollution crime as this kind of crime is complex and involves many scientific concepts and as such the law courts has no choice but to seek the services of people with the relevant scientific expertise to help the judges to make just and fair decisions.^[27]

After the court has assessed all the evidence and its strengths, the judge will then weigh all the evidence including what is contained in the judicial investigative proceedings. The court shall then issue its verdict to convict or acquit the accused of environment pollution crime . Furthermore, despite the issuance of the Iraqi Protection and Improvement of the Environment Act, Law No. 27 of 2009, this law does not stipulate the establishment of a specialized court to conduct cases involving environment pollution crimes. It has been left to the ordinary criminal courts to adjudicate this type of crime. This has resulted in great difficulties to resolve many of the environmental issues. The absence of a specialized court to settle environmental crimes had an impact on the growing problems of environment pollution in Iraq. In addition to that, if there are environmental criminal judges who specialize in environmental crimes, they will have the experience and knowledge about why environment pollution crimes are committed. They will also possess the ability to study the character of the offenders of this type of crime. This will enable them to speed up the resolution of these issues and the imposition of criminal sanctions that commensurate with the gravity of the crime so as to reduce incidences of environment pollution crimes in the future.^[28]

On the contrary, in some countries, there are steps taken to institutionalize the environmental judicature and courts of law which will see to the issue of environment pollution crime. For example, Sweden established a specialized environmental court in 1999 to examine the crimes relating to environmental pollution. This was carried out by the institution of environment courts which are composed of decision-makers and technical experts. It has full

²⁷ Joseph Peterson & Ira Sommers, *The Role and Impact of Forensic Evidence in the Criminal Justice Process* (U.S.: National Institute of Justice, 2010), 3-15.

²⁸ Fathi AL-Jawari, *The Evolution of the Iraqi Criminal Justice* (Iraq: legal research center, Baghdad, 1986), 148.

judicial power.^[29] In the same context, in the Austrian system, there is a specialized environmental court and an independent senate council on the environment (which is composed of 10 judges and 32 legal experts) whose areas of specialization revolve around the cases relating to the law on environmental impact assessment. In the same context, in the U.S., which played a leading role in supporting environmental laws, it has established environmental courts called the Vermont Environmental Court. This is a group of quasi-judicial institutions. This court, in its bid to discharge its duties, relies on a large number of environmental laws, and it also appoints independent competent court officials.^[30] Similarly, in Malaysia, the environmental court at the national level was created for the first time in 2012, and the court is named the “green court”. The court is composed of senior Malaysian judges, under the aegis of the Chief Justice of the Federal Supreme Court in Malaysia. This court was set up for settlement of environmental issues and training of the judges who are working in this court in order to enhance their capability in dealing with issues relating to the environment. The court can also issue punitive verdicts against multinational corporations that were involved in environmental pollution, and it can also impose sanctions against individual violators who do not comply with the environmental laws and impose the toughest financial and corporal punishments on them.^[31]

One respondent, who was interviewed, agrees that the failure to allocate a competent court or a specialized judge to resolve environmental crimes had an effect on the increasing environment pollution problems in Iraq. The existence of a competent court is essential to limit the dangers of environment pollution because the presence of this type of court helps to resolve environmental issues rapidly. The environmental criminal judge will have the experience to know the causes of environmental crimes and will issue a fair judgments against the offenders

²⁹ Amirante Domenico, *Environmental Courts in Comparative Perspective: Preliminary Reflections On the National Green Tribunal of India*. (India: Pace Env'tl. L. Rev, 2011), 4-5.

³⁰ Lavrysen L, “E.U Forum Des Juges de Environnement, Summary Report. Organization of the Courts and Tribunals and Prosecution Policy in the Area of Environmental Crime,” 2014. Accessed June 2, 2016, <http://www.eufje.org/uploads/documentenbank>.

³¹ Nathaniel Sario, “Malaysia to Set up Environmental Courts,” *The Green Reporter*, February 5, 2015. Accessed January 19, 2017, <http://www.thegreenreporter.wordpress.com/tag/environmental-courts/>.

of environment pollution crimes. Therefore, having a specialized court can lead to a reduction of environment pollution crimes.^[32]

Another respondent, an academic, stressed that modern criminal policy requires the presence of special courts to examine environmental pollution crimes. It is a serious crime that threatens the security and safety of the environment and individuals. He recognized that in Iraq, despite the issuance of the special Iraqi law, the Protection and Improvement of the Environment Act, Law No. 27 of 2009, it did not provide for the establishment of a court that specializes in environmental pollution crimes. It was left to the competence (or incompetence) of the regular criminal courts to adjudicate these crimes. The failure to allocate one or more 'special' courts to examine environmental crimes, has led to an increase in environment pollution crimes. He adds that such crimes need to be settled by special courts that have the experience, technical and scientific know-how that is not available in a regular court. Also, if a special criminal court judge is allowed to examine environment pollution crimes, the judge will be able to study the offender's personality in many ways, and as a result, the judge will have a better understanding of this type of criminals and will be able to render the best punishment.^[33]

III. PUNISHMENTS FOR OFFENDERS OF ENVIRONMENTAL POLLUTION CRIMES

The legislature, in its effort to combat criminal activities uses punishment as one of the means to reduce the crime rate. However, the sanctions issued by the courts of law will curb certain personal rights of the convicted criminal. The punishment meted out by the court is merely a response to a person's violation of the rule of law. If there are no sanctions, the law will merely be recommendations and its compliance will be dependent upon the peoples' goodwill.^[34] Punishment is a social response by the state represented by its authorities on behalf of society. The social reaction to the crime of environment pollution can take one of two forms. The first is punishment that is purely punitive in character to counter a previous offense and the second is a precautionary measure with a protective character to counter a crime of environment

³² Shukri AL-Hassan, (2017, December 2). Iraq: Personal interview.

³³ Sohail AL-Naqqash, (2017, February 29). Iraq: Phone interview.

³⁴ Hoskins Zachary, "Deterrent Punishment and Respect for Persons," *Ohio St. J. Crim. L.* 8, no. 1 (2010): 84-369.

pollution.^[35] Accordingly, punishments and measures that can be applied to offenders of the crime of environment pollution varies in terms of the seriousness of the crime committed and the danger posed by the offender. On this basis, the Iraqi legislature in the Iraqi Penal Code, Law No. 111 of 1969, sets up a criminal penalty system on which the judiciary can rely upon to impose sanctions on the offenders of crimes. This system includes all regular and environmental crimes, and on the basis of this system, sanctions on the offenders can be imposed. This system divides punishment into basic punishments (which include imprisonment and fines), and precautionary measures (which include the closure of polluting firms and adverse publicity). The criminal punishments of offenders of environment pollution crimes are discussed below.

3.1 Punishments Restraining the Freedom

Punishments that restrict a person's freedom can be defined as "the looting of human freedom and restricting his freedom by a court ruling based on the law that provides for the punishment of a person who has committed a crime, and detaining him in government institutions that has been prepared for this purpose according to the law."^[36] These are the most common punishments in general law. The application of punishments restraining a person's freedom, (i.e. imprisonment) raises huge debates and is controversial in terms of the varying punishments restricting freedom according to the gravity of the crime or to uniting the same in a single punishment applied on all crimes with a variation in duration between crimes. The Iraqi legislature has adopted the diversity in punishments that restrict freedom including life imprisonment and temporary imprisonment, and severe or simple detention.^[37]

The Iraqi legislature intentionally criminalizes the acts in order to identify actions that involve compromising the environment and has included them within the relevant penal laws. The Iraqi legislature has also determined the punishments for the offender, including the Iraqi

³⁵ Abdul Raouf Mahdi, "Sentences of Imprisonment Are Criminal Sanction in Light of Modern Penal Policy," *Journal of management and government issues* 2, no. 24 (1980): 9-10.

³⁶ Greenawalt Kent, "Punishment," *The Journal of Criminal Law and Criminology* 74, no. 2 (1983): 343-362.

³⁷ Nyan Hassan, "The Criminal Liability of Legal Persons for Environmental Crimes" (Master's thesis, Faculty of Law and Politics at the University of Sulaymaniyah, 2014), 69- 78.

Protection and Improvement of the Environment Act, Law No. 27 of 2009 whereby Article 34 stipulates that “any person who violates the provisions of this Act and the regulations, instructions issued thereunder shall be imprisoned for not less than three months”.^[38] This punishment may be changed with a fine, in case the sentenced person in the crime of environment pollution is a corporate body, as stipulated in Article 80 of the Iraqi Penal Code, Law No. 111 of 1969. The said penal code stipulates that “Corporate bodies.....such bodies may only be sentenced to a fine, forfeiture or such precautionary measures as are prescribed by law for that offence”. Punishments that restrain personal freedom (i.e. imprisonment) are rarely applied within the scope of environment pollution crimes in Iraq, since the Iraqi courts only resort to it in cases where there are deaths of one or more persons, or when there are serious injuries such as permanent disability. The Iraqi courts prefer to resort to the application of other criminal punishments such as financial punishment for this kind of crimes. The courts generally believe that financial punishments are suitable for crimes in which the act of pollution does not lead to concrete damage or permanent disability, especially in cases where the crime is committed by a corporate body and where the identification of a natural person in charge within the facility is impossible, as in most cases .^[39]

On the contrary, in the UK, Section 33 of the Environmental Protection Act of 1990 strengthened the punishment, either by imprisonment for a period not exceeding 5 years or a fine not exceeding £50,000 or both for any person who is convicted of environment pollution crime.^[40] In the same context, in the U.S. the Clean Environment Act of 1990 was amended and this law enjoined all industrial and commercial enterprises to abide by the provisions prescribed by this law. The amended law imposed a punishment of imprisonment for a period of up to 15 years on anyone found responsible for committing the crime of environment pollution. This is exactly the same situation adopted by the American judiciary in cases of environment pollution. Thus, in *Wisconsin v. Doyle*, the environment polluting corporation was convicted for a crime

³⁸ The Iraqi Protection and Improvement of the Environment Act, Law No. 27 of 2009. Journal of Iraqi Facts 4012 (2005). Accessed, April 20, 2017, [http:// www. iraqld. iq/Laws ReferenceSearch.aspx](http://www.iraqlid.iq/Laws ReferenceSearch.aspx).

³⁹ Jurani, “Environmental Crime and Sanctions Prescribed in Iraqi Legislation,” 187-189.

⁴⁰ UK Environmental Protection Act 1990, July 20, 2012. Accessed January 3, 2016, [http://www. legislation .gov. uk /ukpga/1990/43/contents](http://www.legislation.gov.uk/ukpga/1990/43/contents).

of environment pollution in the year 1982 and it had to pay a penalty of \$90,000 while its chairman was obliged to pay the penalty of \$10,000 and served a ten years imprisonment. In another lawsuit, California v. Loren, the owner of the polluting corporation sentenced to a five years imprisonment and in addition to that the corporation had to pay a \$1 million fine.^[41]

The criminal court judge who was interviewed, emphasized the difficulties of imposing a prison sentence against perpetrators of environment pollution crimes. It is because the offenders of this type of crimes are corporations or industrial facilities. Therefore, they cannot be subjected to such kind of sanctions. In most cases, it is difficult to identify the natural person who is liable for the crime to serve out the prison sentence. The judge also confirmed that the difficulties of determining the individuals responsible for the crime within the corporations increase as the competencies are intertwined and the administrative relations get more complicated. Hence, this makes it difficult to apply the penalty on the individuals.^[42]

3.2 Criminal Fine

Criminal fine is one of the basic punishments applicable to environment pollution crimes. Most criminal legislations in Iraq tend to give priority to financial punishment for environmental pollution crimes, which reduces the financial funds of the offender in the interest of the public. The fine is described in Article 91 of the Iraqi Penal Code, Law No. 111 of 1969 as “the amount of money that the convicted person has to pay to the state treasury, as determined in a ruling as punishment for the crime committed by a person”. It is intended to cause pain to the guilty person and is not a compensation as it is a criminal punishment that directly prejudices the financial position of the offender.^[43] The importance of the punishment of a fine is highlighted in environment pollution crimes because most of these crimes are committed by corporations and industrial facilities in their quest to make profits. For example, these corporations fail to equip its industrial facilities with the required equipment to prevent

⁴¹ Clean Air Act – U.S. Senate Committee on Environment and Public Works, February 24, 2004. Accessed April 9, 2016, <http://www.epw.Senate.gov/.../cleanai>.

⁴² Saad Badr, (2017, January 4). Iraq: Personal interview.

⁴³ AL-Feel, Ali. “A Comparative Study of the Arab Penal Legislation in Combating Environmental Pollution Offenses.” *Blue magazine for Research and humanities* 9, no. 2 (2009): 112.

environment pollution because it is expensive. Therefore, the legislature has resorted to financial sanctions because they affect the corporations' financial bottom line. Thus, the imposition of a fine seems to be the most appropriate penalty to deter such type of crimes. As the offenders of environment pollution crimes are motivated by greed and illegitimate profits, fining them will serve as a deterrent. As a result, under these circumstances, it is appropriate that the penalty of a fine should prevail as it affects the criminal's financial situation.^[44]

In spite of the importance of the fine as a deterrent in environment pollution crimes, it has given rise to some problems. In criminal jurisprudence, this type of penalty is not appropriate to punish corporations that pollute the environment because the fine is either too high or too low. If it is too high, it causes deep financial trouble to the industrial corporation and if it is too low it acts as a legal license to pollute the environment. In all cases, the fine is viewed by corporations as part of the usual risks their businesses have to face and their burdens are eventually transferred to their customers and consumers. The fine is also a slightly weak measure to encourage change in the corporations' unfavorable policies. On the other hand, the corporation may decide to treat the fine as a mere business fee and pass the fine on to its customers, or consumers. Even though "public interest" is an acceptable and foreseeable consequence when a penal sanction is imposed, it is at the same time also an unavoidable effect of imposing a sanction that can achieve the maximum good. It can also be argued that, in theory, the corporation is expected to restate its position on environmental policies and practices, but in practice such a response to a fine is not given. The results of a 1978 study on the effects of a fine for breaches of the Australian Trade Practices Act indicate that 40% of offenders who were fined did not introduce any organizational reforms. Therefore, companies do not necessarily introduce new preventive measures after they were sanctioned with fines. Another weakness of the fine is that it does not contribute to the cleaning up of the environment and it also does not financially compensate the victims of the crime. Fines when paid goes to the government coffers, but more often than not the money is used elsewhere and it is not used to clean up the

⁴⁴ Coffee J. C, "No Soul to Damn: No Body to Kick: An Unscandalized Inquiry into the Problem of Corporate Punishment," *Michigan Law Review* 79, no. 3 (1981): 386- 459.

environment. On the other hand, the imposition of a fine on small corporations may cause them to have insufficient funds to finance the introduction of pollution control measures.^[45]

The Iraqi Penal Code has confirmed that the fine is the basis for punishing corporations that violate the environmental laws. Article 80 stipulates that “corporate bodies are criminally responsible for crimes committed by their employees, the board of directors or agents working in its favor or for its benefit or on behalf of them. These bodies may be sentenced to pay a fine, confiscation or precautionary measures prescribed by law for that crime”. In spite of the confirmation by the legislature on the importance of the fine as a tool to deter the contamination of the environment, the fines imposed on the violators do not commensurate with the severity of the damage caused to the environment.^[23]

On the contrary, in the developed countries, fines are used as a deterrent tool against environment pollution crimes. These punishments have significant impact on reducing the risk of environment pollution. In the U.S., the Clean Environment Act imposes on the offender of environment-related crime which endangers the lives of people a maximum fine of \$250,000 for an individual or \$1,000,000 for corporate bodies or imprisonment of up to fifteen years, or both.^[46] Similarly, in the UK there is, in the Clean Environment Act of 1993, a strict punishment against the offenders of crimes relating to environment pollution where the fine does not exceed € 250,000. The penalty shall be tougher if the crime is repeated.^[47]

One of the judges, who was interviewed, argued that the fine does not have any deterrent effect in the field where the crime itself is associated with significant economic advantages. Thus, the fines issued by the courts against corporations that pollute the environment are often simple. Even if it is provided with severe fines, it is rarely required by the courts because its application generally requires the establishment of the real damages or risks on life, health or

⁴⁵ Riihijärvi Kristiina, “Penalizing Corporations for Environmental Crimes: A Comparative Study of the Canadian Experience and the Finnish Law Proposal” (Master's thesis, University of British Columbia, 1992), 136-139.

⁴⁶ Alexa Pappas, “The Clean Air Act Amendments of 1990: Enhanced Criminal Liability,” *Villanova University School of Law Digital Repository* 3, no. 1 (1992): 2- 20.

⁴⁷ De La Cuesta et al., *Environmental Protection through Criminal Law*, 18th ed. (Bucharest: McLaugh, 2017), 63-67.

environment. This is actually a difficult matter to achieve due to the special nature of the crime.^[48]

In response to the simplicity of the punishments and its impact on environment pollution, one academic interviewed confirmed that one of the key factors that exacerbated the environment pollution problems in general is simply the estimation of the fines imposed on the offenders of the crime of environment pollution. The Iraqi legislations do not take into consideration the seriousness of the crime and the resultant serious effects that is both harmful to persons and the environment. Estimating the fine is like giving a license to environment pollution, as corporations and industrial projects deem the value of fine as low if it is compared to the benefit resulting from it. Paying the fine is much more economical than the costs of taking measures and meeting the requirements set forth in the regulations and laws protecting the environment from pollution.^[49]

3.3 Closing Down the Corporations

Closing the corporation or factory as a punishment is the most important precautionary measures prescribed in the crime of environment pollution. It is a precautionary punishment that is imposed on corporate bodies in case of any violation of the environment. This punishment is an important means to address the crime of pollution committed by the corporate bodies. The closing of the corporation may be partial or complete, temporary or permanent, but the current trend is to resort to temporary partial closure. To close the corporation means to stop the work of a corporate body even if it is under another name or under another management. Under Article 121 of the Iraqi Penal Code, Law No. 111 of 1969, which stipulates that “the court may, when sentencing a corporate body for a felony or misdemeanor, order the closure of corporation used in the commission of the offence.” the Iraqi legislature adopted the permissive punishment of closure, i.e. it left the right to the court to impose its authority, except in some special cases.^[50]

⁴⁸ Mohsen Fahad, (2017, January 18). Iraq: Personal interview.

⁴⁹ Amer Zugheir, (2017, December 16). Iraq: Personal interview.

⁵⁰ The Iraqi Penal Code No. 111 of 1969. Journal of Iraqi Facts 4012 (2005). Accessed, April 26, 2017, [http:// www. iraqld. iq/Laws ReferenceSearch.aspx](http://www.iraqld.iq/Laws ReferenceSearch.aspx).

One of the respondent judges confirmed that stopping or shutting down the corporation's operation as a punishment due to its contamination of the environment is extremely important. This penalty puts an immediate end to the dangerous activities committed by the corporation that affects the national economy and public health. Furthermore, this penalty removes the turmoil caused by the environment contamination crime and prevents its recurrence. He confirmed the usefulness of this penalty in cases where the corporations' activities lead to severe damages that are difficult to be remedied later or the health of a large number of people are threatened. The activities of these corporations may lead to serious environmental damage to the area and the continuance of their operations would cause enormous damage to the environment that is difficult to rectify.^[51]

In support of the above-mentioned point of view, a respondent academician emphasized on the importance of closing or shutting down of the industrial facilities or corporations that cause environment pollution if their activities form a real threat to the individuals and environment. He believes that replacing this punishment with other penalties is wrong. For example, keeping the corporations under surveillance or observation seems to be inappropriate under the Iraqi environmental law because it requires the appointment of additional observers and employees when the department that is assigned to protect the environment is already suffering from shortage of staff. Moreover, these measures do not solve the problem of deterrence and the harm it inflicts upon the environment in serious cases. These other measures, in terms of deterrence, will have a relatively limited impact on the corporations.^[52]

On the contrary, a senior engineer in the Iraqi Ministry of the Environment, who was interviewed, argued that the penalty of stopping or shutting down of industrial facilities or corporations for committing environment pollution crimes is not consonant with the principle of punishment. This is because its effect is not only limited to the guilty corporation but extends indirectly to the employees who have nothing to do with the crime. On top of that, the closure of the corporations will have a passive impact on the economy of the community, especially when

⁵¹ Ali Rasmi, (2017, January 12). Iraq: Personal interview.

⁵² Kamal Kazem (2017, December 7). Iraq: Personal interview.

these corporations are significantly large. He was also wondering about the feasibility of this penalty during an economic crisis or when the unemployment rate is very high. As such, these measures should be dealt with cautiously.^[53]

IV CONCLUSIONS

The environment in Iraq is exposed to huge damages before and after the U.S. occupation of Iraq in 2003. This has adversely affected human health and the health of other living things. The past wars and the use of internationally- prohibited weapons by the U.S. during her occupation of Iraq have played a big role in the worsening environment pollution. Despite the fact that criminal legislations for environmental protection, which include the Iraqi Penal Code, Law No. 111 of 1969 and Protection and Improvement of the Environment Act, Law No. 27 of 2009. However, these criminal laws have not been effective in addressing the risks of pollution that threaten the environment in Iraq due to the weaknesses of the criminal legislations and penalties designated for environment pollution crimes which are committed by individuals and corporations, and it also include the non-imposition of deterrent criminal penalties on the perpetrators of environmental crimes. In addition to that, the risk of the environment pollution crimes committed by the corporations and the weakness and vagueness of the laws to determine the criminal liability of these corporations are some of the factors that hindered the effective implementation of the criminal laws against the violating corporations.

Therefore, the existing laws should be made more effective by providing stricter sanctions on violators, and they can also be a deterrent against the opportunists. Corporate environmental crimes can be addressed more effectively through the imposition of higher monetary fines or the application of alternative penalties (such as such as shutting down or liquidation of the corporate). However, the alternative penalties can be more effective in some cases only because the imposition of fines which tends to hit the purse of these corporations may not be deeply felt by the corporation, given their huge monetary reserves. Alternative penalties may be a better punishment and a stronger deterrent. Secondary liabilities should also be adopted. The recognition of the central role played by the individuals within the corporations also plays a part in the perpetration of environmental violations.

⁵³Louay AL-Mukhtar (2017, February 27). Iraq: Personal interview.

REFERENCES

1. Abdul Sattar, Fawzia. Explaining the Code of Criminal Procedure. Cairo: Dar Al Nahda, 1986.
2. AL-Feel, Ali. "A Comparative Study of the Arab Penal Legislation in Combating Environmental Pollution Offenses." Blue magazine for Research and humanities 9, no. 2 (2009): 112.
3. Ali Abdul Imam, (2017, December 23). Iraq: Personal interview.
4. Ali Rasmi, (2017, January 12). Iraq: Personal interview.
5. AL-Jawari, Fathi. The Evolution of the Iraqi Criminal Justice. Iraq: legal research center, Baghdad, 1986.
6. Amar, Turkawi. "State Responsibility for Damage and Environmental Pollution." paper presented at Third Arab Conference on Environmental Management, Egypt, November 21-24, 2004.
7. Ameen, Mohammed. He Procedural Protection of the Environment, Issues Related to the Judiciary and Prosecution Exactly the Scope of Environmental Legislation. Cario: Dar AL- Jamiat Jadida Nashr, 2000.
8. Amer Zugheir, (2017, December 16). Iraq: Personal interview.
9. Andrea Jarolímková, "Enforcement of Environmental Protection through Criminal Law," Common L. Rev 11, no. 1 (2010): 33-35.
10. Awad, Mohammad. The General Principles of the Code of Criminal Procedure. Egypt: Munshaat AL-Maarif, 2002.
11. B, Orfield. Criminal Procedure under the Federal Rules. U.S.: Lawyers Co-operative Publishing Company, 1966.
12. C, Coffee. "No Soul to Damn: No Body to Kick: An Unscandalized Inquiry into the Problem of Corporate Punishment," Michigan Law Review 79, no. 3 (1981): 386- 459.
13. Clean Air Act – U.S. Senate Committee on Environment and Public Works, February 24, 2004. Accessed April 9, 2016, [http:// www. epw. Senate .gov /... /cleanai](http://www.epw.Senate.gov/.../cleanai).
14. David Jenn, *Electromagnetic Radiation Hazards*. U.S.: Naval Postgraduate School, 2009.
15. Domenico, Amirante. Environmental Courts in Comparative Perspective: Preliminary Reflections on the National Green Tribunal of India. India: Pace Env'tl. L. Rev, 2011.
16. EARL, Devaney. "The Evolution of Environmental Crimes Enforcement at the United States Environmental Protection Agency." Third International Conference of Environmental Enforcement. 1994. Accessed May 10, 2016. <http://www.inece.org/3rdvol1/pdf/devaney.pdf>.

17. Hassan, Nyan. "The Criminal Liability of Legal Persons for Environmental Crimes." Master's thesis, Faculty of Law and Politics at the University of Sulaymaniyah, 2014.
18. Ihsan Abdul Amir. (2017, February 5). Iraq: Personal interview.
19. Jurani, Nasser. "Environmental Crime and Sanctions Prescribed." journal of Dhi Qar literature 1, no. 2 (2010): 178.
20. Kamal Kazem (2017, December 7). Iraq: Personal interview.
21. Kent, Greenawalt. "Punishment." The Journal of Criminal Law and Criminology 74, no. 2 (1983): 343-362.
22. Kristiina, Riihijärvi. "Penalizing Corporations for Environmental Offences: A Comparative Study of the Canadian Experience and the Finnish Law Proposal." Master's thesis, University of British Columbia, 1992.
23. L, Lavrysen. "E.U Forum Des Juges de Environnement, Summary Report. Organization of the Courts and Tribunals and Prosecution Policy in the Area of Environmental Crime," 2014. Accessed June 2, 2016, <http://www.eufje.org/uploads/documentenbank>.
24. Labib, Raef. The Procedural Protection of the Environment from the Control to the Trial. Cairo: Dar Al-Nahda Al-Arabiya, 2009.
25. Louay AL-Mukhtar (2017, February 27). Iraq: Personal interview.
26. Mahdi, Abdul Raouf. "Sentences of Imprisonment Are Criminal Sanction in Light of Modern Penal Policy." Journal of management and government issues 2, no. 24 (1980): 9-10.
27. Matar, Salim. "Disasters and the Problems of the Iraqi Environment." Encyclopedia of the Iraqi Environment 21, no. 1 (2010): 148. Accessed August 12, 2015. http://emadhani.blogspot.com/2012/05/blog-post_6838.html.
28. Mitsilegas, Valsamis, Malgosia Fitzmaurice, and Elena Fasoli. Fighting Environmental Crime in the UK: A Country Report. U.K: EFFACE, 2015.
29. Mohsen Fahad, (2017, January 18). Iraq: Personal interview.
30. Moreno, Ignacia. "Introduction to the Environmental Crimes Issue of the USA Bulletin." The Executive Office for United 60, no. 4 (2012): 5- 44.
31. Musa, Ali. The Environmental Pollution. 2nd ed. Beirut: Dar Fekr AL Mua'acer, 2000.
32. Norberry, Jennifer. Australian Pollution Laws: Offences, Penalties and Regulatory Agencies. Australia: Australian Centre for Environmental Law, 1989.
33. Pappas, Alexa. "The Clean Air Act Amendments of 1990: Enhanced Criminal Liability." Villanova University School of Law Digital Repository 3, no. 1 (1992): 14-20.
34. Peterson, Joseph, and Ira Sommers. The Role and Impact of Forensic Evidence in the Criminal Justice Process. U.S.: National Institute of Justice, 2010.

35. R, Kaufman. "Criminal Procedure in England and the United States Comparisons in Initiating Prosecutions." *Journal of Fordham Law Review* 49, no. 1 (1980): 26-39.
36. Saad Badr, (2017, January 4). Iraq: Personal interview.
37. Sario Nathaniel, "Malaysia to Set up Environmental Courts," *The Green Reporter*, February 5, 2015. Accessed January 19, 2017, [http:// www.thegreenreporter.wordpress.com/tag/environmental-courts/](http://www.thegreenreporter.wordpress.com/tag/environmental-courts/).
38. Shukri AL-Hassan, (2017, December 2). Iraq: Personal interview.
39. Sohail AL-Naqqash, (2017, February 29). Iraq: Phone interview.
40. The Iraq Constitution of 2005. *Journal of Iraqi Facts* 4012 (2005). Accessed, April 13, 2017, [http:// www.iraqld.iq/Laws ReferenceSearch.aspx](http://www.iraqld.iq/Laws ReferenceSearch.aspx).
41. The Iraqi criminal Procedure Code No. 23 of 1971, Iraqi Legal Database, May 31, 1971. Accessed March 28, 2017, http://www.iraqld.iq/identity_search.aspx.
42. The Iraqi Penal Code No. 111 of 1969. *Journal of Iraqi Facts* 4012 (2005). Accessed, April 26, 2017, [http:// www.iraqld.iq/Laws ReferenceSearch.aspx](http://www.iraqld.iq/Laws ReferenceSearch.aspx).
43. The Iraqi Protection and Improvement of the Environment Act, Law No. 27 of 2009. *Journal of Iraqi Facts* 4012 (2005). Accessed, April 20, 2017, <http://www.iraqld.iq/Laws ReferenceSearch.aspx>.
44. Tim, Newburn, Tom Williamson, and Alan Wright. *Handbook of Criminal Investigation*. U.S.: WILLAN Publishing, 2012.
45. UK Criminal Procedure and Investigations Act 1996. Ministry of Justice, October, 2014. Accessed April 15, 2017, <https://www.gov.uk/.../cipa-1996-code-of-practice-consultation.pdf>.
46. UK Environmental Protection Act 1990, July 20, 2012. Accessed January 3, 2016, <http://www.legislation.gov.uk/ukpga/1990/43/contents>.
47. United Nations Scientific Committee on the Effects of Atomic Radiation "The Chernobyl Accident", UNSCEAR, 2008. Accessed on July 19, 2017, <http://www.unscear.org/unscear/en/chernobyl.html>.
48. Younis, Abdul Hakim. "Protection of the Environment Iraqi Criminal Legislation." *Journal of Rafidain Rights* 16, no. 57 (2015): 150.
49. Zachary, Hoskins. "Deterrent Punishment and Respect for Persons." *Ohio St. J. Crim. L.* 8, no. 1 (2010): 369-384.