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A study on the rights to a healthy environment, with the emphasis on the prohibition of air pollution (Dust): Creation of national solidarity and regional interaction, in the light of customary law and general principles of the laws of Iran

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مطالعه‌ای در باب دارا بودن حق محیط‌زیست سالم با تأکید بر ممنوعیت آلودگی هوا (ریزگردها): ایجاد همبستگی ملی و تعامل منطقه‌ای در پرتو اصول عرفی و اصول کلی در حقوق ایران

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Abstract

The main issue presented in this article, which is going to review the rights to a healthy environment and the prohibition of air pollution, in particular dust, now has become an issue that needs national solidity and regional interactions for a solution; and to enable the decrease of the pollution for the affected countries as well. Dust is a phenomenon that is the result of an environmental crisis. The absence of international rules, as well as uncertainty in states' obligations toward each other, have complicated this crisis on the regional and international levels. The main goal of this article is first, recognizing the Customary and general principles that are existing in Iranian laws to arrange regional programs to decrease and diminish the dust phenomenon. Second, the article intends to raise sensitivity in people toward the critical and dangerous conditions of environmental pollutions. Third, it is going to lay legal and executive grounds to increase the local institutions and international organizations' responsibilities for such issues. However, the main question in this article, with descriptive-analytical approach, is: in the absence of binding and identified international and regional obligations regarding dust, in what ways affected governments could protect the right to a healthy environment for their citizens? Based on this question, one can conclude that even though the affected governments do not maintain reciprocating conventions, the international customary law and local legal general principles of those countries conform to the governments' obligation; and suggest that they take action against any harm, in particular, the environmental irreparable harm to their citizens.

Keywords: rights, healthy environment, air pollution, dust, customary principels, general principels.

چکیده

مسأله اصلی در تحقیق حاضر، پرداختن به دارا بودن حق محیط‌زیست سالم و ممنوعیت آلودگی هوا به‌ویژه ریزگردها، به‌مثابه مساله‌ای که برای تحقق آن به همبستگی ملی و تعاملات منطقه‌ای در جهت کاهش آلودگی هوا در کشورهای درگیر این پدیده نیاز است، می‌باشد. پدیده ریزگردها به‌عنوان یک بحران محیط‌زیستی و نبود قوانینی مشخص در حقوق بین‌الملل و نامشخص بودن وظایف دولت‌ها نسبت به هم باعث پیچیده‌تر شدن بحران‌های محیط‌زیستی با مقیاس منطقه‌ای و بین‌المللی شده است. اهداف اصلی تحقیق حاضر، نخست بازشناسی اصول عرفی و کلی موجود در حقوق ایران برای تدوین برنامه‌هایی منطقه‌ای در جهت کاهش و از بین بردن پدیده ریزگردها، دوم حساسیت‌زایی در عامه مردم نسبت به شرایط وخیم و خطرناک آلودگی‌های محیط‌زیستیمحیط‌زیستی و سومین هدف بسترسازی‌های قانونی و اجرایی در جهت افزایش مسئولیت‌های نهادهای داخلی و سازمان‌های بین‌المللی درگیر در این زمینه می‌باشد؛ اما سؤال اصلی تحقیق حاضر که بر پایه روش توصیفی-تحلیلی پیش رفته است، حول این مبحث مهم است که در غیاب تعهداتی مشخص و الزام‌آور بین‌المللی و منطقه‌ای در زمینه ریزگردها، دولت‌های درگیر از چه طریقی از حق یک محیط‌زیست سالم برای شهروندانشان، دفاع می‌کنند؟ بر اساس چنین سؤالی می‌توان نتایج تحقیق را بدین‌صورت ترسیم نمود که دولت‌های درگیر پدیده ریزگردها، اگرچه تعهداتی کنوانسیونی در قبال یکدیگر ندارند، اما عرف بین‌المللی و اصول کلی حقوق داخلی هر کشور این مسأله را تأیید می‌کند که دولت‌ها باید در برابر هر ضرری به شهروندان خود به‌ویژه ضررهای جبران‌ناپذیر زیست‌محیطی، اقداماتی انجام دهند.

واژه‌های کلیدی: حق، محیط‌زیست سالم، آلودگی هوا، ریزگردها، اصول عرفی، اصول کلی.

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Introduction

In terminology, "rights" means proved which is employed against false, meaning not proved. The Great Scholar Dehkhoda has denoted such a meaning for rights, that the term offers validated proof for a positive affair that establishes a privilege in one's favor and gives them control over the right to them, and further imposes mandatory obligations upon others in favor of the person who maintains the rights (Dehkhoda, 2006). In terms of semantic, rights have several applications. They include justice, property and proprietor, appropriate affair, sound judgment and deserved (Ma'aloph, 2000). As such, 'rights' is an Arabic term that means 'proved' and 'realized' (Mesbah Yazdi, 2001).

Furthermore, rights comprise of three elements: First, the person whom the rights devoted to them and enjoyed. Second, the person whom the rights act against them, and imposes obligations 'for the one how holds the right'. Third, the person to whom the rights are given (the subject of the rights).

In addition, if a person causes harm to others, can be held responsible for the compensation of the damages, even if it is done unintentionally. As such, the material and physical damages create responsibility, however, the economic damages are not secured, and therefore they are subject to the rights of traders, business entities, etc. According to Katozian (2003), "here the responsibility is subject to the proof of fault of the wrongdoer. It is the same situation for the intellectual damages incurred due to the cancellation; which the indemnification is subject to the proof of fault."

On the other hand, human beings enjoy the rights to the environment: The right to a healthy environment where life proceeds are enabled. They are inherent rights bestowed upon them. 'Health' is the term applied for this context in English, from the Greek word 'Holth' that later came to Middle English as 'Holistic' (complete) and the word: 'Health' has derived from this term. According to the World Health Organization (WHO), health is explained as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity" (Callahan, 1973). This definition includes both the primitive aspect and affirmative aspect. Most researchers have given their main concerns to the primitive aspects because its terminology is more eloquent and precise (Toebes, 1991). One can find the same primitive aspect given in the WHO definition that heath is explained as a state of complete physical, mental and social well-being that merely refers to the absence of disease (Abbasi, 2011).

Theoretical Foundation

To comprehend the meaning of health, we should not restrict it to primitive aspects; but we also need to examine and analyze the affirmative aspect. We should not summarize health as the absence of disease. Some diseases cannot be treated permanently, whereas illness prevention could be more effective than treatment in most cases. Therefore, it is imperative to equally take the concept of prevention with health improvement into consideration (Walsh, 2000).

Also, it can be daresay that the right to be healthy is not merely restricted to have access to the health care, hospital, and medical establishment; rather it contains broadly covered rights that require a realization of all human rights to be fully accomplished. The definition of health as a right for humans brings extensive ambiguity. Researchers have offered various definitions, including 'rights to health care' (Mahoney, 1993) or in a broader spectrum, 'health right' (Eide, Krause & Rosas, 1995). In international law, the term 'rights to health' is applied. Nonetheless, exact meanings for the right to a healthy environment can be found neither in international law nor related regulations.

Furthermore, given the extensive forms and variations being present in our world, as well, the concerning environmental issues, we must attempt to offer the most possible precise and practical definitions. In general, our surrounding environment could be categorized into three areas: 1- natural environment; 2- social environment; 3- artificial environment (Ghavam, 1999). Therefore, in all general elements of our environment, either human-wise, natural or artificial, the core issue for surviving our life on the earth yearns for a healthy and well-

being environment that would be recognized as the natural and human rights.

Accordingly, it is extremely important and vital to understand and examine every kind of ecosystem crisis that challenges our human natural rights. Dust is an existing phenomenon that has noticeably come into existence in recent decades and has taken the right to a healthy environment away. This crisis has an international trait and hence, cannot be settled with the application of the local law of a country. Therefore, it has to be referred upon those parts of international laws that emphasize the tights to a healthy environment. Air pollution is one of the problems that has recently has struck international law. On the other hand, dust phenomena have become an outbreak among serious environmental issues. It has expanded to the central provinces of Iran and caused a national crisis. In the interim, using the strategies offered by the environmental researchers, the state has attempted to remove the internal and external causes for such a phenomenon. However, due to the extensive large deserts located in countries such as Saudi Arabia and Iraq, as well as Iran's several years of drought in the region such as Khuzestan and other parts in the south of Iran, they altogether caused further difficulties for people round the year. No doubt the Iranian government is required to seek medium-term and quick solutions, on one hand, and rely on political solutions to settle the disputes with the governments like Iraq. Therefore the main goal in the present article is, first to understand the dust phenomenon, and second, to provide plans and strategies to solve it; with the attention to the national solidarity within the country and regional interactions with neighbor countries, and third, to know the governments' duty for dealing with dust phenomenon to reclaim the rights to a healthy environment.

On the other hand, among these types of pollutions, the dust phenomenon nowadays has become an extensive and far-approaching regional crisis. In the last two decades, a considerable amount of dust is sitting in the southern provinces of Iran; mostly blown from countries like Iraq, Syria, and Saudi Arabia. These three countries own the largest deserts and therefore, negotiation with them is the only solution that can be sought. The core question of this research is coming out from the heart of this irremediable issue: with the absence of any binding and specified international and regional obligations regarding environmental pollutions, how the affected governments could protect the right to a healthy environment for their citizens? Another important question is about the government's legal and binding duties. With the presumption of such duty, one may ask about the regional and internal responsibilities that governments hold to prevent the growth and expansion of dust. The first hypothesis that should be taken into consideration is: even though the governments do not retain reciprocating conventional obligations, the international customary law and the state local general principles emphasize that governments must take actions against the damages incurred to their citizens, and in particular the irreparable impacts on the environment. The second hypothesis demonstrates that, with the aid of those general and customary principles, the governments can offer innovative plans, expert gatherings, mutual and multilateral negotiation between affected countries to find short-medium, and long-term solutions to resolve the issue of dust; and restore the health conditions on the ecosystem in those affected regions. These solutions can be assumed as a beginning measure for the codification of new international law concerning the dust phenomenon.

Nowadays, a need for an international convention that considers the dust phenomenon is felt. For several years, the Iranian government has attempted to resolve the dust issue, using its internal and external capacities and focusing on the issue that no surprise is sourced from outside of Iran, in particular from countries like Iraq, Syria, and Saudi Arabia. By far, different governments have offered several attempts, including series of expert gatherings to resolve the issue of dust blown from Iraqi lands. As an example, the Iranian government had conducted serious discussions with neighboring countries like Afghanistan, Iraq, and Syria. These discussions were focused on various issues such as water crisis, dust crisis, and other border-related issues, and were held at the level of Head and Deputy of Department of

Environment of Iran; also, with the Arabic-African Deputy of Foreign Affair. As one of the results for those gatherings, it can be referred to a mutual agreement signed between Iran and Iraq, in which, The Department of Environment of Iran is obliged to train Iraqi citizens for 5 years, to proceed with desertification of a large part of dry lands and sand lands located at the west and east-west of Iraq.

There is no doubt that due to non-existence of a binding and comprehensive convention, and non-cooperation, either mutual or multilateral, of affected countries such as Iran, Iraq, Syria, Kuwait, and Saudi Arabia have caused total ignorance about needed priorities to preserve the ecosystem. Long-term wars in the region, insecurity, lack of governmental strength, and lack of related institutions are known as some of the reasons that resulted in such a non-cooperation and lack of communication. The right to a healthy and clean environment is a priority for countries that are faced with internal threatening and dangerous difficulties on one hand, and assuring the regional states to become safe and internationally adherent caused a large part of the Middle East to suffer from political fission, and the fragile environment has been one of the most important and probably first failures of it (Amer, 2015).

As such, countries like Iran that are equipped with credited and legitimized scientific and environmental institutions should take initial steps to resolve the dust issue; and further prepare regional conventions to confront and prevent the expansion of the dust. The multilateral cooperation shall not succeed but with negotiation and the cooperation of environmental and civil institutions. Experiences of other countries prove the same for the need for regional cooperation. The water crisis in the southeast of Iran (Hirmand water right) was an instance showing that even if a mutual obligation is respected between Iran and Afghanistan, it is still possible to cause future issues, that only requires negotiation, direct participation, and mutual expert gatherings, any absence of which will go in vain and fail to improve the situations in the southeast of Iran (Majidyar, 2018).

One of the most functional unilateral or multilateral measures to control the dust crisis is that the affected countries amend their land-use conversion policies, to preserve forests and fields, in particular in Iraq, Syria, and Iran. This importance is due to the scarcity of green coverage in those areas and that makes it more crucial to preserve and maintain the forests. Another measure is to provide a draft that anticipates the solutions for those affected countries. The draft should initially demonstrate the critical situations of the affected region in respect to the dust crisis identify other focal crises and further, specify the measures, regulations, and conditions required for the codification of a regional treaty.

Research Background

A regulation specifies the long-range transboundary of air pollution. Further, Ali Mashhadi and Azizallah Fahimi co-authored a book called ‘Notion of Environmental Law’ that has addressed and studied air pollution in one of its chapters. The Department of Environment of Iran holds an office designated to such activities. The office has held some official sessions with the neighboring countries (including Iraq), but there has been no significant success by far. UNECE Convention on Long-range Transboundary is a convention signed in 1979 and became effective in 1983, which deal with long-range transboundary air pollutions and their solutions. The Convention is considered as an instrument to preserve the environment and assist for further development of International Environmental Law. The Convention has created an important framework to control and reduce damages against humans and the environment’s health caused by long-range transboundary air pollutions. Further, the Convention is established by European Union and 34 European countries that signed it. Undoubtedly, this Convention can become a functional and appropriate model to secure the legal obligations and promises for controlling long-range transboundary air pollutions. In particular, this Convention can become a model for Middle East Countries to convert it to a regional agreement.

Brauer (2016) performed relatively comprehensive research about dust as an ecosystems crisis and the harm this has done to different parts of the world. He attempted to study some of the crucial environmental crises in the Middle East, including the dust crisis.

The World Bank provided a detailed report in 2016 and warned about the disastrous dust phenomenon in the Middle East and North of Africa. Relying on the precise data provided by the affected countries, The World Bank estimated that a fund over 9 billion USD is required to take action against the crisis (World Bank Group, 2016).

Worland (2015) also has performed researches and refers to the Middle East crisis. He demonstrated that growth in the amount of rain at that year, as well as the measures, were taken by some countries to identify the focal crisis, and taking actions had caused a drop in the dust. He has placed the main focus on Iraq, Jordan, and Saudi Arabia.

Research Methodology

The Present Study Method is descriptive-analytical. The data were collected using the desk-based research. We applied an adaptive and comparative method to analyze the data and legal information. The statistical population in the research encompasses the affected countries confronting the dust issue in the Middle East, which were divided into two groups. The first grouping consisted Iran, of which its general law and customary principles will be analyzed. The second grouping included countries like Iraq and Saudi Arabia.

Research Innovation

Technology utilization has increased the environmental pollutions over the borders, and duplicated the complexity of other new phenomena such as dust. However, no comprehensive legal studies were carried out so far to resolve the challenges originated from regional pollutions like dust. Hence, this research intends to offer new and innovative aspects. Before relying on physical equipment and human factors, the state should equip itself with rules and regulations that oblige the affected to take actions confronting transboundary-regional pollution. They include endorsement of mutual agreement or contracts, negotiating, and holding expert gatherings that cooperating environmental activists and authorities run. Failure to do so should have consequences, including legal compensation against those committed governments.

Therefore, the most important innovative aspect of this research is to introduce the rules and regulations presented in the legal and customary realms that are supplied to confront the regional pollutions, including dust; they are appropriately tailored to meet the situation of the regional countries.

Research Findings

According to Article 50 of Constitutional Law of I.R. of Iran, 'The preservation of the environment, in which the present, as well as the future generations, have a right to flourishing social existence, is regarded as a public duty in the Islamic Republic. Economic and other activities that inevitably involve pollution of the environment or cause irreparable damage to it are therefore forbidden.' (Habibbi, 2003).

However, it should be noted that due to its internally rooted nature, relying on the mere existence of Article 50 in local resources, does not secure the protection of the rights of the nation in international realms, as well, it cannot be binding (Abdinejad & Nateghi, 2010). Nonetheless, the external nature of the dust is not a nature to hold the state irresponsible toward the mentioned Article. As such, till the state reaches a comprehensive agreement with its other neighbors, it remains responsible to fulfill its obligations. Therefore, it is necessary to quickly take short and medium-term actions before the issue is finally settled down. There are some measures the state can take. They include supplying face masks for all people, and not merely for too sensitive groups, grow vegetation, and watering dry wetlands that caused the dust. In addition, it will be very helpful to create green belts in affected provinces including Khuzestan, Elam, etc., that can relatively alleviate the damage.

Essentially, resolving the crisis can be divided into two managing sections, crisis management, and prevention management. Planning execution and treatment measures that are included in crisis management are now taking priority. They include environmental actions such as growing vegetation, mulching, and building windbreaker establishments. All these execution plans 'are considered transnational

and demand political wills and applicable technical cooperation between relevant institutions of the countries in the region' (Zamani, 2009). Many affected countries have aggravated the dust phenomenon because of not being equipped with a macro data system and further lack of preventative actions. Countries like Iraq and Syria were involved in civil wars and battles with the Dāʿish group. This group was one of the most important factors for the lack of care and attention to natural resources in these two countries. Forests and fields in the north and western north of Syria are completely diminished, and the deserts are expanding daily. Some commentators may find this overstating, nonetheless, the desert expansion in these two countries and the abolishing of infrastructure and natural resources are not less destructive, comparing with the mass murders that Dāʿish has committed in Mosul and Raqqa. Lack of security and principled organizations are two main factors that resulted in the dust phenomenon growing in recent years. Although climate change was playing a critical role in increasing pollution, the existence of a strong state could activate the civil and environmental entities, and it could decrease the damages of dust in related regions (Barnett, 2013).

Customary principles regarding the pollution caused by air pollution (dust)

Customary law can be defined as frequent similar practices and behaviors performed by the subjects of the international laws, that gradually find a binding and legal strength in their mutual relations, and therefore attain equal validity and volubility with statuary legal regulations. Any international rule needs to adhere to that conduct. Custom is a starting point for the creation of a responsibility system. At the same time, customary international law does not specify the extent of the duty care principle and therefore is too vague to offer any instructions for acceptable conduct.

Moreover, many developing countries do not find themselves adhering to the customary principles. They even believe that such principles are an attempt by developed countries to exhaust and defecate their growth. Although the dispersion and disagreement in international law cause sluggishness, with the development of international law, eventual understanding that abidance to customary law will secure the benefit for all countries, which itself increase the growth and developments of customary law.

General principles of law regarding the dust pollution

On the other hand, general legal principles play a significant role. The generality of those principles provides an opportunity for judges to apply them in different situations. They give liberation of actions to ease up the rough legal consequences. General principles of law may be subject to ignorance in the past; however, the advancement of legal systems now is triggering the development and evolution of international law to the extent that the duty of care has now taken this role appropriately. Therefore, general principles of law that are related to international environmental law reviews are as follow:

Paragraph 1: Sicuture tuo ut alienum non-laedas (obligation not to cause injury to others)

This principle which was adopted from Nuisance–like standard, is generally intended in this use that the states are essentially free to apply their sovereign rights over their territories; however, on a condition that they do not contradict other state's rights. The principle of good faith, which is one of the main principles in international environmental law, is another way of saying the Sicuture, included in Article 74 of the Charter of the United Nations. This principle is recognized in international jurisprudence and further adduced in arbitration decisions. International Court of Justice articulated in Corfu case 'that some principles such as the obligation of a state do not allow its territory to be used to commit acts against the rights of any other state. (Case concerning the Corfu, 1945).

This principle and its general obligations seem to be special obligatory conduct that, using other words is referred to in a doctrine and they are pertinent to the precautionary principle. Taking the different phrases used by International Justice Court regarding Corfu into consideration, some legal scholars believe that international law recognizes it as the duty of obligation and not guaranteeing the results. However, here, it means the states are obliged to reasonably use their rights and are not entitled to impose them upon others or ignore them. More important issues in this regard

occur when we intend to specify and evaluate the application in detail.

When it comes to excessive aggressions that are contrary to sovereignty orders, the rights for a country to protect against the violations of this principle are simply recognized and respected. However, this is not the same, when the issue is to assess the probable restrictions to be applied on the territorial jurisdictions, meaning to assess all activities that are performed within a territory, but their consequences are to affect another territory. Below, we present a brief regarding the said principle that is a branch of the no-harm use principle.

- The principle of no - harm use to others

This principle explains several essential elements that are referred to when the prevention of transboundary pollutions is considered. The main role of this principle is extensively understandable when the protection of the environment in transboundary pollutions is at stake because this protection has always been subject to potential disputes and problems among countries. However, there are various opinions regarding transboundary pollutions. These opinions are reaching their balance as they develop, and so far, they have evolved from being extremely radical and national toward becoming more universal and rational. The first opinion belongs to Harmen (1895). Specified scientific theories that are accepted in international law have repeated these principles that say all affected countries struggling with the environmental crisis have to coordinate between their national interest, which is the right to a healthy environment, and their regional interests, which also include the prevention of dust issues. Such coordination is not achievable unless environmental diplomacy exists. Diplomacy has foundations that support local rights and promises the fulfillment of external obligations. It is the only way, which secures both the right to a healthy environment for citizens of a country and further the territorial and regional rights for the affected countries (Brusseau, Ian & Gerba, 2019).

Comparative study of the principle of no-harm uses

We have observed through history that either religions and creeds, or the stream of thoughts offered in the East or West of the world, emphasized the principle that says no rights justify harm to others. The most prominent of this respect is found in Roman Law and Islam. This long-respected rule specifies that the application of someone's property cannot be harassed by others. This principle initially became more mature in the private law and upon the acceptance in the statuary law of countries. It further found its way toward international law; however it was in a very premature and not fully grown aspect. According to its content, this principle is to emphasize that the legitimate and legal rights attained due to ownership or acquirement are not allowed to cause harm to others. Countries are not an exception to that rule. In the Islamic jurisprudence, this subject is known as the rule of prohibition of the detriment that applies a broad review regarding the Taslit formula (Mohammadi, 2001).

According to the Taslit formula, every person has the absolute power to exercise dominion or control over the property. Therefore, it is possible to bring these two principles together. However, the issue arises when the aggregation of both applications will not be doable, which their contractions result in that rule of prohibition of detriment eliminate the other one. It is because the former determines the extent of application of the latter. (Ramezani Ghavam Abadi, 2007). In international law, this principle is called the no harm use principle. According to it, every state is responsible to perform its national and internal affairs in such a manner that does not harm and cause damage to neighboring states. Stockholm Declaration accepted this principle for the first time and entered it into the recent international law codifications. According to Article 21 of the Declaration, following the Charter of the United Nations, all states have sovereign right to exploit their resources according to their environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not harm or damage other states.

Aside from the recognition of the right of the environment, this principle imposes further emphasis on countries that are not entitled to apply for legislations that would provide harm to other countries. This principle has further become an unavoidable principle that is

accepted in environmental treaties. Although Stockholm Declaration offers considerable novelty, it contains many uncertainties. It merely refers to the primitive aspects and has ignored the primitive ones. As an example, further to the treaties concluded with Iran, the countries like the Iraqi government are obligated to mulch the deserts that are located in the south and east south of Iraq. Iraq however evades such legal responsibility relying on excuses that the said obligation does not constitute its priorities. This has caused irreparable harm against the livelihood, agriculture, provinces interactions, entertainment, and rights of enjoyments of Iranian citizens. Due to the transboundary nature of the issue, the government is not able to swiftly resolve the issue. As such, it is essential to conduct negotiations with Iraq. This is a place that states exploit every measure, even non-democratic, to realize their rights. We however must concede that the complexity of the environmental pollutions and related factors have deprived the states to fully eliminate the environmental pollutions. For instance, the fatal air pollution in Tehran, which reaches a hazardous level at some times of the year, is at the extent to practically bring the city and life to a halt; and there are no measures or political review that can resolve the issue. In this situation, there is no use to refer to general principles or customs, and therefore, no hope is remained but to wish for a wandering wind to clean away while moving through Tehran's high-rise buildings. (Hegger & Sarraf, 2018).

Further, many organizations and academic authorities at the international level have considered this issue. Among those, it can be referred to Athens Conference in 1979, Strasbourg Conference in 1997, Article 21 of Stockholm Declaration, and Article 2 of Rio Declaration, a draft of International Convention regarding the responsibilities due to the non-prohibited acts of states, and finally, Article 3 of the draft for the principle of no harm use to other states. It may not be drawn up from the contents of the article, however, it is observed in the majority of them that it is the measures that are undertaken and not the results. This can be considered as a weak point and the countries' behaviors will be the explainer of their undertakings. Hence, as the last resort, that country that is affected by boarders issues, should take unilateral measures with consideration to the rights of the interested states in mind (Harlem, 1993).

-The role of Rio Conference and Stockholm Conference on the augmentation of the principle of the no harm use by other states

Holding the UN 1972 Conference in Stockholm, Sweden, regarding the environment was the result of significant growth of universal awareness about the international environment, being commenced since the 1960s. This was a turning point in the development of international policies about the environment, and it was aimed to found an international structure to accomplish further internationally coordinates measures regarding environmental pollutions and other environmental crises. The main purpose of the Stockholm Convention can be found in the review of Article 2 to 7 of the Convention, which refers to the human's responsibilities to protect the environment. Some of the held principles in this Conference, along with the creation of other institutions and their implementation led to everlasting effects. The outcome of the abovementioned conference was included as further: a Declaration consisting of 26 principles about the environment and development of a guideline compromising of 109 recommendations on six issues (human accommodations, management of natural resources, pollutions, educational and social aspects of environment protection, relation between the development, environment and international environmental organizations), as well as a resolution regarding the united institutions and environmental and financial amenities. For the years to come after the Conference, some international agreements also concluded. Article 21 has particular importance in the Stockholm Conference. This was due to the rights of the countries to decide about the natural resources and the method of exploitation. However, it was stipulated that those countries are obligated to act in such a manner that they do not cause any harm to the environment of other countries and the realms outside of their national lands and control. Gradually, the principle of the 'polluter pays' was developed and further, the responsibilities and expenses of the pollution were internalized.

Stockholm and Rio Declarations came to

existence under the UN's supervision. As it appears from the names, they are formed as declarations (Corocolla Soria & Robinson, 2006). Although they are not legally binding, they are a manifestation of those principles which the states consider too, and form the foundations for other environmental conventions.

Application of the principle in international disputes

The no harm use principle is being relied on in several international disputes. Perhaps one finds the Trail Smelter arbitration the most well-known initial step to care for the transboundary pollutions (C. F., Arrest project, 1997). The way of giving attention to the case demonstrated that international law has changed the direction from compensation toward the formation of particular regulations that are to support the environment and the cooperation between interested states. The International Court of Justice relies on the principles in various cases. Corfu's case is also another example.

- 'Polluter Pays' Principle

Historically this principle denotes that in environmental law, the cost of managing the pollution is on the society and not the polluter. The principle prevents pollution by forcing the polluter to internalize the cost of pollution control. The entities merge the said cost into the final price of products and make the consumer pay a portion. Therefore, the 'polluter pays' principle is a method to internalize the cost. According to the geographical location, where this principle is obedient to alike environmental law, it readily becomes possible to have unities such as country or regional organization with a uniform economy. The polluter is defined as a person who, directly or indirectly, damages the environment or caused the situation that resulted in such damage.

In general, this is the polluter that pays the cost of restoration. The costs include founding and maintenance of anti-pollution establishments, investment in such establishments, and new procedures that are required to achieve the aim for the favored environment. Another way is to impose taxes and fees. In practice, this may be encountered with some difficulties. It happens when several polluters are involved that could not easily be identified. In those situations, it may be no other way than make society to bear the entire cost of compensation.

The principle of creation of environmental safety

The creation of environmental safety is considered as one of the fundamental regulations in this field of international law. In addition, the principle is increasingly relied upon in environmental disputes, due to the fear of destruction of the environment and natural sources, as well as the consequences of it (Human Rights and Democracy Group, 2004). This principle is considered a new tool in international environmental law and attempts to provide binding regulations aiming to prevent further destruction of the protecting layers for the earth.

Principles, as presented below, are essential to provide a safe environment:

A: The principle of having the right to equally enjoy the ecological safety, which considers the instability incurred in some parts of the earth as a threat;

B: The principle of prohibition of the violation of the ecological system, including the prohibition of transmission contaminated material or implementation of other harmful activities;

C: The principle of inspection, which is based on the approved international requirements, including the creation of specialized international institutions to offer specific care, assessment, and general control.

D: The principle of legalizing the exchange of information pertinent to ecological matters, at a national and regional level;

E: The principle of preventing to conduct transboundary transmission of pollution that is harming the environment;

F: The principle of creation and application of a fit mechanism, using amicable disputes settlement methods in environmental conflicts (Mousavi, 2007).

Given this writing, one may conclude that international law does not retain the adequate functionally. It however should be stated that, undoubtedly, the world would be in chaos and devastation if international law had not existed. The violations should not bring hopelessness and desperation but should be motivated to work on the weak points and seeking solutions when the violations occur

(Matin Daftari, 2009). If we think the international law has been inefficient or even dysfunctional, then not only all multilateral or mutual international treaties and conventions to solve the environmental issues among countries are rendered null and void, but in the long run, countries' local regulations shall weaken as well. For environmental safety, international regulation has higher standing, compare to local regulations. This significance is because of the link that it can create among countries when a crisis happens. In the absence of the said regulation or materializations, the affected countries are the ones to suffer the hardest (Seagle, 2019).

It is crucial to seek solutions for environmental issues within all policies. As such, the protection of the environment is not merely a task designated for environmental policymakers but related to other policies and measures as well. According to this standing, can one dry out the wetland or convert fertile lands into deserts with no consideration to the air pollution and other environmental damages and consequences? Therefore, existing of an abiding country is the first element to fulfill an international responsibility. According to international rules and regulations, countries are the entities that hold rights and responsibilities. International organizations are also international entities that act according to their statute. They are the ones to be in charge in our neighboring countries such as Turkey, Iraq, and Saudi Arabia. The second element regards the conduct, which refers to and requires a violation of a commitment, or breach of a contract, customary law, general principles of law, or other international regulations that constitute the actus reus. The said violation includes acts or omissions. As such, if a government is obligated to an omission of an act, the disobedience will result in responsibility, no difference that the source has come from customary law, general principles or international regulations, or a contract in the society. Nowadays, the principle of "preventing the environment from pollution" is a crucial principle and its disobedience will raise responsibilities for countries. However, it should be noted that there is no particular international convention regarding the dust solution; as such, for some entities, it does not consider a violation of international law. Nevertheless, many conventions as mentioned above, including the Stockholm, Rio, and ENMOD, along with the principles such as the no harm use principle are the proof of the existence of this principle that one cannot apply its right at the cost of damages to others.

- The right of enjoyment of the healthy environment

The right to enjoy a healthy and clean environment includes other rights, such as the right to environmental education, the right to have access to environmental information, and the right of enjoyment of compensation. For example, the right to environmental education is in the government's hands. The states have the responsibility to inform their citizen about the environmentally destructive and polluting phenomena such as dust, via public media. Then affected groups and citizens can educate and inform others about the consequences of such dangerous and polluting phenomena. The right to have access to environmental information is a right that from one hand requires the states to release the environmental facts, and provide open wide access to them; and on the other hand, there is a fact that no citizen is capable of taking any proper decision regarding the environment if such information is banned from public awareness. Should the states wish to perform their environmental project and the improvement of life, they are heavily dependent on their citizens to participate in doing so.

Therefore, if the states attempt to provide access for the public, it will help them to improve their project performance.

On the other hand, refusal of providing access to a healthy environment has an international negative effect and hinders the advancement of the rules and principles pertinent to human right to enjoy the environment. One of the most significant perspectives related to human rights refers to the fact that in the last twenty years, the United Nations, not only has taken actions to secure the treaties that relate to individuals, including setting local courts, sending special rapporteur, and other human rights mechanisms, but it has included the environmental subjects into the group of issues. They now have all led to this result that the right to a healthy environment is being considered as a human right (Knox & Pejan, 2018).

Right to compensation is another issue. Citizens of all countries have the right to compensation for environmental issues, and it can be applied through the judicial system. No doubt recognition of such a right will inform and educate citizens about destructive events.
On the other hand, nowadays the right to have a healthy environment is recognized under international law and it has been confirmed through instruments such as Stockholm Declaration and national laws. Nonetheless, a lack of consensus regarding the definitions is observed, which is considered as one of the main issues in international environmental law. As a general definition, a healthy environment is an environment that retains the minimum standards of a clean and healthy life.

Creation of interactions in the Middle East: a manifestation of common values or common interests in the region

The dust crisis in Iran can be examined at three levels: 1- local level, 2- regional level, 3- international level:

1- At the internal level, there are numerous administrative bodies and organizations involved. They include the entities at the lower level of governing town and counties, such as regional municipalities and the crisis campaign and it goes further toward higher levels such as Red Crescent Organization, Water Department, Department of Environment and ministries, including Health Ministry, Ministry of Agriculture- Jahad, Ministry of Energy, Ministry of Petroleum, Ministry of Roads & Urban Development, even includes President's administration and Supreme Leader to react against the crisis and issue emergency orders to seek for potential solutions. Universities and research centers, including Ahvaz Jondishapur University of Medical Sciences and Iran Meteorological Organization took immediate steps in an attempt to resolve the issue as well (Asghari Laphmajani, 1999).

2- At a regional level, there was some cooperation between Iran, Saudi Arabia, and Iraq before Iran's revolution. They included dust storms inhiation activities such as mulching in some regions and vegetation growth, but they stopped due to the eight years of war that Iraq imposed against Iran. Although a new agreement is now made and some cooperation is commenced between The Department of Environment and Iraqi's officials, it almost came to a halt due to the war in Syria and Dāʿish emergence in Iraq. The situation did not improve anymore, since due to the recent crisis in Yemen and the attack from Saudi Arabia appears that the situation will not be alleviated soon, and therefore no such as environmental cooperation sounds practical.

3- At an international level, the United Nations takes action using the United Nations Development Program for Iran that includes: poverty reduction, health, substance use control, natural disaster control, and environment. According to the UN Research Center for Tehran, established in February 2014, and with the request from I. R. of Iran and the UNDP office in Iran, several international and national well-known experts were invited to offer their expertise and solutions. They were asked to offer a series of recommendations related to two dying wetlands in Iran. The above-mentioned report became a basis for working on the restoration of Iran's wetlands as an important and effective step for the protection of the environment.

Currently, the UN is working on programs for desertification in the Persian Gulf. According to the statements given at the 20th National Conference of National Environmental Science in Iran by Gary Luis, the agent of the UN, this organization has five programs, including the management of water scarcity, cooperation with the government for desertification, climate change, and preventing of emissions, air pollutions, and reversion of the loss of environmental biodiversity (actions taken to protect the endangered species with the help of the UN and its assistance with the NGOs). However, despite the intention of the UN to cooperate with Iran to proceed with the environmental protection program, the progress suffers from low improvement. As well, according to his statements, their office has received several offers to save Iran's wetlands, including an offer of financial assistance of 2 billion dollars from Japan, which consisted of environmental programs and educations for residents and farmers located in Lake Urmia and Anzali Lagoon. The dust crisis is the result and also the outcome. It is the result of water scarcity,

unfriendly behavior against nature, unauthorized damn construction, mismanagements, and development of petroleum industry, all in one word, unsustainable developments. The crisis has outcomes, including diseases, social and economic issues, immigrations, threatening the ecological systems, mainly a threat to human safety in the region (Bootkin, 2000).

Some solutions including mulching, planting adaptable vegetations can have limited effects to solve the dust issue. However, it should not be ignored that since the main players in international relations, meaning states, would not change their approach toward the seriousness of the environmental crisis, the efforts made by local or foreign NGOs could not do much. A broad interpretation of human safety that includes the third generation of human rights, environmental safety, is needed to take the main pace to resolve the crisis in the region. The second pace is to take a diplomatic approach. Since the crisis has a regional root, it demands transboundary management as well. The region is now facing an economic and social crisis, such as legitimacy issues, war, oil price drops, and main powers and regional's competitions, which reduce the possibility of regional collaborations. However, I.R. of Iran has to rely on its own national potentials, including the sovereignty precedence and history, educated population, the territorial extent, and history of participation in international organizations, and as a member of the UN can and should take initiatives in the region, particularly in the Persian Gulf. These initiatives can result in active diplomacy regarding the dust crisis management, and further complex multilateral collaborations between the countries in the region. Although the economy of the countries, in particular in the Persian Gulf is heavily reliant on gas and oil selling, this is also the reason to avert the economic convergence among the affected countries. The cooperation for a healthier environment can become a predisposing factor for regional solidarity and eliminate or alleviate regional conflicts; which ultimately result in peace maintenance, poverty reduction, and sustainable developments in the region; those are named as the aims of the UN for the Third Millennia. As one of the principles of international law is to consider an arbitration clause to enforce every treaty or convention, and it appears that probably can lower the conflict and brings the multiplicity into unity. As such, it is recommended to return to old solutions and the Islamic Iran to include the arbitration clause with its choice of arbitrators requesting for aid from China or Russia, to solve the issues of dust, first at the regional level and then at the global arena.

Discussions and Conclusion

Environment is the ground of thriving and use for human rights. It is difficult to imagine the rights with no place for applications. Perhaps in the past not far from now, there was little care for the environment in the scientific literature, but nowadays, the dangerous aspects of the environmental crisis are known and come to the extreme focus of the public. In the interim, the right to a healthy environment is more exquisite. This is a subgroup of the sequence of rights to a healthy environment. Relying on the existing customary and general principles, the states should apply regional interactions and international collaboration to find solutions for the dust crisis. The government of Iran is not able to seek solutions merely relying on its local regulations. On one hand, the regional countries like Iran, Syria, and Saudi Arabia, pending on their regional and international capacities are obligated to assist with the improvements of the province's conditions. On the other hand, if Iran, as the affected state, without the collaboration of other states and creation treaties and conventions, takes unilateral decisions, it would not succeed. We have proved in the present research that although the affected states do not have commitments against each other regarding this crisis, they are bound to the general and customary principles that emphasize their obligations to protect their citizens from harm, including the irreparable environmental harms and they should take actions that are assuring and noticeable for their citizens.

In conclusion, regarding the natural polluters, and in particular dust, has to be stressed that although due to the absence of any validated regional conventions, no affected country is held responsible, the international law retains a principle that requires the neighboring countries must prevent harm and damages to

their neighbors. Furthermore, attention should be given to this legal point that the absence of any conventions and particular commitments regarding the healthy environment does not constitute the affected countries can remain non-active. However, they should use particular political measures and implement relevant solutions, and take preventive measures including mulching, vegetation growth, and desertification. Nonetheless, there is no doubt that one of the considered solutions to raise awareness about and even prevent such issues like dust, apart from the role of climate change, states' ignorance and unsustainable development, is to bring the opportunity for education and raising attention among the citizens, in particular, the residents of the affected regions. This requirement needs its vast importance recognition and necessity perception, as one cannot expect any vital and great changes with no given educations.

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