



# INTERNATIONAL PROTECTION OF THE MARINE ENVIRONMENT

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## Abstract:

The environment is of particular importance, especially with regard to the concept of “protection”, which has attracted considerable international attention and led to numerous international agreements. The international community has become aware of the imminent dangers facing the marine environment and the disasters that can result from negligence, which may extend far beyond immediate borders unless there is intensive cooperation to mitigate them.

**Keywords:** marine environment, international mechanisms, protection, pollution

## INTRODUCTION:

The environment is the vast space in which humans live, both influenced by and influencing their surroundings, as no one can live in isolation from it. However, the environment has long suffered from numerous obstacles and problems that have caused significant ecological imbalances, such as the careless use of pollutants and chemicals that have altered its properties and components. This requires that individuals be aware of the risks involved, as the health of the environment has a direct impact on their physical and mental well-being, as well as on the health of animals and plants. It is therefore imperative that we commit ourselves to protecting the environment.

The task of protecting the environment is not an individual responsibility; it requires international cooperation and a comprehensive effort to protect it, considering that all impacts on the quality of life on Earth are everyone’s responsibility. The importance of this study lies in the significant dangers threatening the ecological environment, especially our marine environment, which is one of the most threatened elements due to the huge amounts of pollutants it is exposed to every day, such as ship discharges and the indiscriminate dumping of waste, including shipwrecks at sea. This reality has led various countries and organisations to work diligently to establish strict measures to prevent such occurrences, alongside agreements that oblige nations to create mechanisms for protection and to establish rules for compensation in the event of negligence.

We have therefore decided to divide our topic into two sections: the first will deal with the legal framework of the marine environment, and the second will discuss the international and regional mechanisms for its protection. So, to what extent have international efforts, through cooperation, succeeded in establishing real protection for the marine environment?

## Chapter One: The legal framework for the marine environment

The marine environment plays a crucial role in the life of living organisms and contributes significantly to the conservation and balance of biodiversity. It is also economically important to humans as a source of food and energy. Consequently, both national and international laws have given it special attention and effective protection to prevent changes in its composition or overexploitation.

### Section One: Concept of the Marine Environment

The marine environment is defined as that part of the global ecosystem that consists of seas, oceans, rivers and their tributaries, and the living organisms they contain, whether plant or animal. It also includes other resources such as minerals of various kinds. These organisms are interdependent and interact in a balanced relationship which is disturbed when the physical and chemical properties of the marine environment are compromised<sup>1</sup>.

The term “marine environment” is relatively new to international law, which has traditionally used the term “sea” to refer to those areas of the earth covered by salt water and connected without barriers. The sea is defined as “the bodies of saltwater which form a coherent unit on the earth and which have a single hydrographic system” or as “the areas of saltwater which are freely and naturally interconnected”. Thus, the marine environment includes interconnected bodies of saltwater and the living organisms, both animal and plant, and the natural resources found in their seabeds and subsoil, which together constitute the elements of marine life<sup>2</sup>.

Because it is considered an ecosystem, many international agreements have been established since 1926 to establish plans and frameworks for controlling marine pollution, particularly that caused by oil spills. The creation of the United Nations in 1945 was accompanied by the creation of various specialised organisations and agencies focused on environmental protection<sup>3</sup>.

These concerns were addressed at the Stockholm Conference held in 1972 under the slogan “One Earth”. This conference marked a significant turning point in the attention given to environmental issues, leading the delegates to adopt a declaration of 26 principles, many of which were dedicated to the protection of the marine environment<sup>4</sup>.

The Algerian legislator has referred to the concept of the environment without explicitly defining it. Article 4, paragraph 6, states that “the ecosystem is a dynamic assemblage of plant and animal species, individual members and their abiotic environment, which, through their interactions, form a functional unit”. Furthermore, paragraph seven of the same law states that “the environment consists of biotic and abiotic natural resources such as air, climate, water, land, subsoil, plants and animals..<sup>5</sup>”.

According to the 1982 United Nations Convention on the Law of the Sea, the marine environment is “an ecosystem or group of ecosystems in the contemporary global concept of ecosystem, which focuses on the study of a particular unit in time and space, encompassing all living organisms under physical and climatic conditions, as well as the relationships among living organisms and their relationships with the surrounding physical conditions<sup>6</sup>”.

## **Section Two: Importance of the Marine Environment**

The marine environment is of great importance, reflected in its economic, strategic, psychological and vital values, as well as its role in achieving ecological balance. It is the primary source of all existing energy and therefore its importance is manifested in the following ways:

### **First: The marine environment as a source of food**

The marine environment is a source of food for humans and other living organisms. It contains vast quantities of various marine species with high nutritional value, especially fish. God made the sea a

<sup>1</sup>- Zrawali Sihem, Mechanisms for Protecting the Marine Environment from Oil Pollution, Academy of Social and Human Studies, Department of Economic and Legal Sciences, Issue 21, January 2019, p. 131.

<sup>2</sup>- Bellil Zineb, The Marine Environment in the Mediterranean: Reality and Challenges, Journal of Law and Human Sciences, Volume 15, Issue 1, 2022, pp. 2138-2139.

<sup>3</sup>- Abdel Laoui Abdel Karim, Protection of the Marine Environment in Algerian Law, Master’s thesis, Faculty of Law and Political Science, Abou Bakr Belkaid University of Tlemcen, 2016-2017, p. 15.

<sup>4</sup>- Abdel Laoui Abdel Karim, same reference, p. 15.

<sup>5</sup>- Law 03-10 of 19 July 2003 on the protection of the environment in the context of sustainable development.

<sup>6</sup>- Mohamed Amin Mohammedi, Hajj Ghouthi Qassem, Marine Pollution in the Light of International Law. Journal of Scientific Research in Environmental Legislation, Ibn Khaldun University of Tiaret, Issue 9, 2017, p. 431.

source from which humans could obtain fresh meat<sup>7</sup> long before they understood the importance of this meat for building their bodies<sup>8</sup> due to its high content of animal protein and amino acids.

Fish and whales also provide meat, oils and vitamins, and their remains are used as fertiliser and animal feed. Given the global food crisis, the scarcity of animal protein and the lack of amino acid-rich cereals and root crops in most countries, there is a growing reliance on the marine environment for these essential nutrients<sup>9</sup>.

### **Second: Strategic importance**

Countries have increasingly turned to the oceans for the vast resources they contain. This trend has led to a division within the international community into major maritime nations, which possess large naval fleets and advanced tools and technologies that enable them to dive and explore the depths of the oceans. As a result, these nations can quickly and easily access the wealth they seek, often overlooking the interests of developing countries that lack the capacity to deploy their technical capabilities in this vital sector. As a result, developing countries perceive developed countries as exploiting the oceans in ways that harm their economies.

This situation has been highlighted in numerous legal forums, such as the Third United Nations Conference on the Law of the Sea, where each group has tried to convince the other of the validity of its views on the exploitation of the oceans. However, these different perspectives began to crumble in the face of the need to establish a new economic system that would reconcile these differences and emphasise the link between the importance of the oceans and strategic positioning. This reality was particularly evident during the Cold War, when the great powers regarded the maritime environment as a battleground for various forms of armament competition<sup>10</sup>.

### **Third: Economic importance**

The economic importance of the marine environment is demonstrated by the significant increase in fishing yields year on year, particularly in developing countries. Due to a lack of agricultural produce, these nations have increasingly turned to the marine environment. Although fishing may no longer be considered the primary economic activity related to the seas and oceans, it has nevertheless achieved significant catches in recent years<sup>11</sup>.

In addition, the oceans are of great importance because of the sea passages and routes used for international shipping, such as the Straits of Bab el-Mandeb, Hormuz, Tiran and Gibraltar, and the Suez Canal, which links the West with the East. This strategic importance is the driving force behind the emergence of the concepts of sovereignty and control over the seas in the contemporary context<sup>12</sup>.

## **Chapter Two: International Mechanisms for the Protection of the Marine Environment**

Since pollution is an international problem, by its very nature it concerns the entire international community. Therefore, it is essential that international efforts be united to preserve and establish

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<sup>7</sup>- Mohamed Amin Mohammedi, Hajj Ghouthi Qassem, same reference, p. 433.

<sup>8</sup>- Salah Hashem Mohamed, International Responsibility for Harm to the Marine Environment, Doctoral Thesis in Law, Faculty of Law, Cairo University, Egypt, 1989-1990, p. 23.

<sup>9</sup>- Salah Hashem Mohamed, same reference, p. 23.

<sup>10</sup>- Salim Haddad, The Legal System of the Seas and Arab National Security, University Foundation for Studies and Publishing, Beirut, first edition, 2004, p. 29.

<sup>11</sup>- Wanasah Jaddi, Legal Protection of the Marine Environment from Pollution in Algerian Legislation, Master's Thesis in Law, Department of Law, Faculty of Law and Political Science, Mohamed Khider University of Biskra, Algeria, 2007-2008, p. 20.

<sup>12</sup>- Mounir Al-Fitni, Criminal Protection of the Marine Environment from Pollution, Master's Thesis in Public Law, Faculty of Law, Ben Aknoun University, Algeria, 2013-2014, p. 18.

mechanisms for its protection. Recognising the importance of this strategic resource, it has become clear that countries must develop strategies to prevent violations and ensure its protection.

### **Section One: International Efforts to Protect the Marine Environment**

The rules of customary international law relating to the seas are silent on the marine environment and its protection, focusing instead on the legal framework for the use of the seas and oceans and the determination of applicable rules of law. In addition, the United Nations Charter of 1945 did not contain any explicit provisions directly protecting the environment, as environmental protection was not a pressing issue in international relations at the time. Despite this, many international agreements have been concluded to protect the marine environment, even if they do not explicitly refer to it. Some of these agreements deal with the protection of the marine environment in general terms, while others deal with specific sources of marine pollution, known as sectoral agreements<sup>13</sup>.

#### **First: The 1958 Geneva Convention on the Law of the Sea**

The 1958 Geneva Convention on the Law of the Sea is an excellent example of a general agreement on environmental protection. Among its provisions, the Convention addresses issues related to the disposal of nuclear waste and the conduct of nuclear tests in areas of the high seas not under the sovereignty of any state, which could turn the seas into a dumping ground for such waste, leading to marine pollution. This poses a significant threat to the marine environment.

Consequently, delegates at the 1958 Geneva Conference recognised this threat and adopted legal provisions requiring states not to pollute the marine environment. The conference, attended by 86 countries, culminated in the adoption of four conventions and an optional protocol on 29 April 1958:

Agreements reached at the Geneva Conference

1. Geneva Convention on the Continental Shelf
2. Geneva Convention on the High Seas
3. Geneva Convention on the Territorial Sea and the Contiguous Zone
4. Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas
5. Optional Protocol on the compulsory settlement of disputes<sup>14</sup>.

#### **Second: United Nations Convention on the Law of the Sea**

This Convention is one of the most important international agreements on marine environmental issues and calls for enhanced international efforts to address marine environmental problems. It is the broadest agreement in terms of membership and was drafted during the 11th session of the Third United Nations Conference on the Law of the Sea, held in Jamaica on 10 December 1982. It entered into force in 1994.

The Convention addressed various issues relating to the law of the sea and established legal principles for international obligations to protect the marine environment from pollution and to combat its sources. The Convention is notable not only for being a compilation of previous practices, laws and provisions from earlier agreements, but also for being the first comprehensive international law on the oceans and their protection. It encourages countries to work together to combat the dangers of marine pollution and is regarded as one of the most effective environmental protection agreements<sup>15</sup>.

#### **Third: London Convention on the Prevention of Pollution by Oil (1954)**

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<sup>13</sup>- Mehdi Jamal, International Efforts in Protecting the Marine Environment, *Academic Journal of Legal and Political Research*, Volume 7, Issue 1, 2023, p. 1054.

<sup>14</sup>- Mehdi Jamal, same reference, p. 1055.

<sup>15</sup>- Mehdi Jamal, same reference, p. 1056.



Following discussions at the United Nations Economic and Social Council in 1950 on the increasing incidents of marine pollution caused by discharges of oil from ships and other sources, an international conference was held in London from 26 April to 5 May 1954 to address the problem of marine pollution by oil. The participating countries recognised the seriousness of the problem of oil pollution of seas and oceans. Twenty countries signed the Convention, which entered into force on 26 July 1958. It was amended several times in 1962, 1969 and 1971 on the basis of proposals from the International Maritime Organisation<sup>16</sup>.

The aim of this Convention and its subsequent amendments is to combat pollution of the sea by oil by designating certain areas where the deliberate discharge of oil and its residues is prohibited<sup>17</sup>.

#### **Fourth: Stockholm Conference**

On 5 June 1972, the Stockholm Conference adopted the International Declaration on the Human Environment, considered the first regulatory work in the field of international law. This declaration contains a set of recognised principles sufficient to organise relations concerning the environment. It is considered by many to be one of the most important sources of international environmental law. Among the key points of the Stockholm Declaration is the contribution to the development and codification of international environmental law at both national and regional levels, and the promotion of international agreements on environmental issues, especially concerning rivers and oceans<sup>18</sup>.

#### **Section Two: Regional Mechanisms for the Protection of the Marine Environment**

International efforts have been complemented by regional cooperation, resulting in numerous regional international agreements. Notable examples include the 1969 Agreement on the Prevention of Pollution of the North Sea by Oil, the 1972 Oslo Convention among the North-East Atlantic States and the 1974 Helsinki Convention for the Protection of the Marine Environment of the Baltic Sea.

#### **First: Barcelona Convention**

In 1976, the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution was signed. Two of these protocols were signed at the same time as the Convention, while the third, aimed at preventing pollution caused by the dumping of waste from ships and aircraft, was signed in Athens in 1980. The second and fourth Protocols were signed in Geneva in 1982, stressing the need for cooperation between the Parties to take appropriate measures to prevent pollution of the Mediterranean Sea from all sources and to establish the necessary programmes for monitoring pollution in the Mediterranean<sup>19</sup>.

Second: Kuwait Regional Convention for Cooperation in the Protection of the Marine Environment from Pollution (1978)

This Convention resulted from the Regional Conference held in Kuwait from 15 to 24 April 1978. It provided a specific definition of marine pollution and aimed to address the issues of protection and development of the marine environment and coastal areas in the Arabian Gulf<sup>20</sup>.

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<sup>16</sup>- Mohamed Mansouri, Legal Mechanisms for Protecting the Marine Environment between Public International Law and Domestic Legislation, *Journal of Legal and Political Sciences*, Volume 10, Issue 2, September 2019, p. 839.

<sup>18</sup>- Adnan Muhammad Abdul Wahab, Muammar Ratib Abdul Hafiz, Alaa Abdul Hafiz Muhammad, *Journal of African Research and Studies and Nile Basin Countries*, Aswan University, Volume 4, Issue 1, January 2022, p. 280.

<sup>19</sup>- Mohamed Mansouri, Previous Reference, p. 480.

<sup>20</sup>- Mohamed Mansouri, previous reference, p. 480.



## CONCLUSION

The marine environment has received both global and national attention, indicating its unique nature that warrants such focus. The phenomenon of pollution poses a significant challenge to the international community, creating a need for cooperation and solidarity among countries to address this challenge. This need has led to a consensus among nations on the importance of establishing a robust legal framework and adopting stringent measures to prevent and combat pollution, both at the national and international levels.

To mitigate or prevent environmental disasters that are difficult to contain, we propose several solutions:

1. Effective commitment by states: States must effectively comply with their treaty obligations to protect the environment and prevent disasters.
2. Imposition of financial penalties: Financial penalties should be imposed on countries responsible for actions that harm the environment.
3. Establishment of effective regulatory bodies: Regulatory bodies should be established to impose sanctions on non-compliant states.
4. Rational use of water resources: Policies should be implemented to promote the sustainable use of water resources.
5. Integration of international and national law: International law must complement national legislation and adapt to all developments that contribute to environmental protection.

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