



## Exploring the pathology of civil liability in environmental destruction

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### Abstract

Environmental protection stands as a crucial and practical subject in contemporary times, demanding comprehensive investigation and research across various domains, including Islamic jurisprudence. Jurisprudence serves as the foundation for social and individual laws, thus recognizing the capacities embedded within jurisprudential resources, encompassing texts, traditions, reason, and consensus, holds paramount importance. The issue of environmental preservation remains a significant concern of our era, with activities related to safeguarding the environment being deemed essential by the United Nations as a whole. The term "environment" is employed in two distinct contexts: one emanating from the notion of nature, introduced as the preservation of the natural environment, and the other, interwoven with human compatibility, termed the human environment. Both appellations encompass a broad spectrum of diverse environmental subjects. The realm of laws and regulations pertinent to the prevention of environmental destruction and the punishment of polluters falls within the realm of criminal law, with the assurance of compensating damages inflicted upon the environment entrusted to the realm of civil liability. Consequently, this study endeavors to delve into the investigation and pathology of civil liability in the context of environmental destruction.

**Keywords:** Pathology, civil liability, environment, destruction, compensation

### Introduction

The environment, with its diverse dimensions, is a gift from the divine encompassing mountains, forests, meadows, plains, rivers, seas, and more. The protection of the environment is not only emphasized by rational consensus among intelligent beings but also finds prominence within various religious doctrines. The increase in haze, the hunting of endangered animals, deforestation for timber or construction, air pollution from factories and smoke-emitting vehicles, waste disposal and the introduction of effluents into rivers, the increase in greenhouse gases, and the depletion of the ozone layer, all these topics have garnered human attention in recent years for the preservation of the environment. This matter has gained such significance today that the disregard for an environmental protection standard might affect the health, longevity, and life of all inhabitants of Earth.

In environmental policies, one significant and effective approach to prevent destruction and pollution of the environment is the utilization of legal mechanisms. Among these approaches, the imposition of civil liability upon polluters and environmental disruptors stands out.

According to the fiftieth principle of the Constitution of the Islamic Republic: "Protection of the environment, in which the present and future generations must enjoy a growing life, is considered a public duty. Therefore, economic activities and any other activities inhering environmental pollution or irreversible destruction are forbidden".

There exist numerous and diverse laws enacted for the preservation and monitoring of the environment. Although legislations are widely dispersed, lawmakers have endeavored to encompass all dimensions of environmental rights. By prohibiting environmental destruction and the depletion of natural resources, these laws emphasize the preservation of water purity and the prevention of its pollution, safeguarding soil and air quality, as well as

addressing chemical pollution, nuclear contaminants, and the prohibition of unauthorized hunting and poaching.

### Analyzing the principle of "depletion" in environmental civil liability

As previously stated, "depletion" refers to the act of destroying or damaging property, which is applicable in the relationships between individuals and the environment around them. It is governed by commonly used religious legal principles. The first aspect of the ruling concerning the depletion of another's property is from a prescriptive perspective, involving the prohibition, and from a situational perspective, it pertains to liability.

Regarding the role and application of the principle of "depletion" in the realm of environmental civil liability, several noteworthy points can be highlighted:

1. All elements comprising the environment, such as water, soil, and air, constitute environmental resources that humanity relies upon for sustenance and the existence of a healthy environment conducive to growth. Consequently, these resources deserve respect, protection against encroachment, preservation from destruction, and compensation for any resulting damages.
2. Environmental elements are often categorized as public assets and fall within the realm of communal ownership and shared resources. Ownership of these elements belongs to the Imam, and therefore, appropriation without his consent is impermissible and considered a sin (Entezari, Mohaqeq Damad, 2012, p. 49)<sup>[18]</sup>.

According to the Law of Civil Liability, unauthorized environmental destruction is prohibited, as Article 50 of the Constitution designates the right to a healthy environment as a fundamental and foundational right. It deems environmental destruction illegal and views any violation of

it under Article 1 of the Civil Code as compensable: "...or any other right established by law for individuals".

Furthermore, environmental destruction and pollution cause harm to life or property, infringe upon the right of enjoyment, and result in loss. Thus, any individual who pollutes the environment is liable for civil misconduct. Whether the damage pertains to the polluter's own interests or those of others is immaterial (Entezari, p. 5).

One of the principles of international environmental law established in European law is the "polluter pays" principle. This principle is intricately linked to both the principle of guarantee and the principle of depletion, being derived from domestic law (Entezari, p. 5).

In accordance with this principle, whenever an individual, whether natural or legal, causes pollution, they must compensate for the incurred costs to individuals and society (Fahimi, Arabzadeh, 2012, pp. 192-194)<sup>[31]</sup>.

### **Provisions of Civil Law Regarding the Principle of Depletion**

**Liability for destruction under the principle of depletion can be based on provisions of civil law**

**Article 328 of the Civil Code states**

"Anyone who depletes another person's property is liable for it and must pay its value or price, whether the depletion was deliberate or unintentional, and whether it pertains to the physical item or its benefits. If someone causes the property to become deficient or defective, they are liable for the reduction in its value."

#### **Article 331 further states**

"Anyone who depletes a property must compensate for its value or price. If they cause the property to become deficient or defective, they are responsible for rectifying the decrease in value" (Mansour, 1386, p. 70).

From the contents of this section, we deduce that anyone causing the destruction of another person's property, whether directly or indirectly, has committed a prohibited act, is liable for compensating for the incurred damages, and is responsible for rectifying the decrease in value.

### **The Principle of "La Zarah"**

#### **Definition of the "La Zarah" Principle**

One of the most well-known legal principles extensively applied across diverse domains of Islamic jurisprudence, encompassing worship, transactions, and beyond, is the principle of "La Zarah". This fundamental principle serves as the foundation for addressing numerous jurisprudential matters. The "La Zarah" principle entails the prohibition of any form of harm or injury in Islam. This principle is also referred to as the "Principle of Harm," the "Principle of No Harm and No Injury," and the "Principle of Avoiding Harm."

#### **Historical Background of the "La Zarah" Principle**

Throughout history, and even at the dawn of Islam, the "La Zarah" principle has consistently occupied a pivotal role in negating harmful regulations and upholding the sanctity of preventing harm in various contexts. This principle has been referenced by jurists from both the Shiite and Sunni traditions. However, theoretical discussions regarding its foundation seem to have gained prominence from the time of Sheikh Ansari in the 19th century. Sheikh Ansari extensively delved into theoretical discussions of this

principle in his works "Fara'id al-Usul" and "Makasib Muhrimah," which has reached its peak in the present era (Rezaei Rad, 2010, pp. 65 and 64).

### **Documentation and Evidences of the "La Zarah" Principle**

#### **A. From Books**

In the Noble Quran, there are verses that explicitly use the term "harm" and its derivatives in specific contexts, presenting legal rulings. These verses utilize the principle of "La Zarah" to establish general applicability by suspending specific injunctions. These verses carry a broader meaning and can establish "La Zarah" as a foundational principle. (Mohaqeq Damad, 1391, Vol. 1, pp. 131-132).

Now, let's mention a few examples of such verses:

1. "Let no mother suffer harm on account of her child, nor should the father on account of his child."

No mother should suffer harm due to disputes related to her child, nor should the father on account of his child (Al-Baqarah/2:233).

"And do not hold onto them to harm them."

2. You have no intention to harm them, rather, you intend to act unjustly (Al-Baqarah/2:231).

"Some men used to divorce their wives and then later return to them, not out of genuine affection, but rather with the intention of exploiting and trespassing upon them. This sometimes involved infringing upon the financial rights that women were entitled to due to their marital status. In the Noble Quran, God has prohibited returning to wives with the intention of causing harm and distress." (Tabatabaei, 2007, Vol. 2, p. 355).

3. "And neither should the scribe nor the witness be harmed."

The scribe and the witness should not cause harm (Al-Baqarah/2:287).

Verse: " After the will is given to her or a non-harmful debt."

After leaving a non-harmful bequest to the heirs. (An-Nisa/4:12)

From the verses, it can be inferred that god prohibits causing harm to others and warns against it.

#### **B. Tradition**

Numerous traditions exist regarding the "La Zarah" principle, although they may not all use the exact wording, they share a common theme. Here, we will mention a few of them:

##### **1. Authenticated by Zorarah**

A narration from Zorarah reports that Imam Jafar Sadiq (peace be upon him) said: "There was a person named Samarah ibn Jundab who had a date palm tree in the home of an Ansari. Sometimes, he would climb the tree without seeking permission from the Ansari's home. The Ansari complained to the Messenger of Allah (peace be upon him), who summoned Samarah and tried various solutions to resolve the issue. However, Samarah persisted. Finally, the Prophet instructed the Ansari: 'Go and uproot the tree and throw it at him, for there is neither harm nor damage.'" (Kulayni, 2013, Vol. 5, p. 292)

## 2. Ibn Maskan Narration

This narration also involves Samarah ibn Jundab. Al-Kulayni in his book *Al-Kafi* reports from Ibn Maskan, quoting Zorarah, who reports from Imam Jafar Sadiq (peace be upon him): "After numerous offers to Samarah ibn Jundab, which he declined, the Prophet (peace be upon him) said, you are a person who inflicts harm, and no harm should be caused to a believer." Then, the Prophet ruled, "Uproot the tree and throw it at him." (Kulayni, p. 294)

"These two narrations are related to the same story, which has been transmitted in various ways. The difference between the two is that the phrase 'Ali al-Mu'min' (to a believer) is present in the second narration, but absent in the first. In some sources, the phrase 'in Islam' is also mentioned. The variations in the transmitted texts have led to different interpretations, but the essence of the "La Zarar" principle remains intact." (Mohaqeq Damad, 2003, Vol. 1, p. 135)

## 3. Direct Quote by Saduq

The Almighty God has deprived disbelievers of inheritance as a punishment for their disbelief. But for what crime would He deprive a Muslim of inheritance? How does Islam become a cause of increase in harm and evil for them while the Prophet said: "Islam brings increase, not decrease" and also stated: "There is no harm or damage in Islam." (Har'aameli, 2022, Vol. 7, p. 376)

## 4. Narration of Uqbah bin Khalid from Imam Sadiq (peace be upon him)

The Prophet, in the presence of those who were in a shared house or land, decreed to appoint a mediator and said: "No harm and no damage (La Zarar Wa La Zaaar)." (Kulayni Razi, 2003, Vol. 5, pp. 293-294)

The noble Hadith of "La Zarar" has generality, meaning that it can be applied in various contexts. Therefore, there is no doubt that damaging the environment and polluting the living environment is an act that is prohibited and falls under the category of harm and damage. Thus, the individual must bear the responsibility for the damages, either by restoring the previous state or providing an equivalent compensation.

### C. Reason (Intellect):

"The most important reason for the principle of 'La Zarar' is intellect. In fact, it can be said that this ruling is part of 'rational necessities' that are matters on which reason concludes without requiring a specific religious ruling." (Mohaqeq Damad, 1391, Vol. 1, p. 131)

### Jurisprudence of Tradition (fiqh-al-hadith)

This Hadith has been narrated in three forms:

1. "La Zarar wa La Zaaar"
2. "La Zarar wa La Zaaar fi al-Islam"
3. "La Zarar wa La Zaaar 'ala al-Mu'min"

### Meaning of the Terms in the Hadith "La Zarar wa La Zaaar"

#### "Zarar" in the Dictionary

In linguistic terms, "Zarar" is the verbal noun derived from "Zar, Yazar, Zara" (Ibn Manzur, Vol. 4, p. 482).

It signifies harm, damage, or injury. (Raghib Isfahani, 2007, p. 263)

Harm, damage (Ba'labakkī, 2006, p. 677).

Narrowness (Same).

### The views of jurists and scholars regarding the meaning of "Zarar" are as follows:

"According to Imam Khomeini (may his soul rest in peace) 'Zarar' signifies the opposite of benefit and stands in contrast to it." (Source: "Bada'i al-Durar fi Qa'idah Nafi al-Darr", Musavi Khomeini, p. 61)

"'Zarar' encompasses all forms of damages and losses inflicted upon another." (Source: "Mabani va Rahayafthaye Akhlagh-e Zist Muhit", Mohaghegh Damad, 2012, Vol. 1, p. 141)

### In the legal terminology, "Zarar" has several meanings:

- a. Physically harming oneself or others, including injuries, wounds, or even murder.
- b. Attacking the dignity or honor of others or oneself.
- c. Destroying or damaging one's or others' properties, including theft and breach of trust.
- d. Preventing the realization of a benefit that should naturally occur (lack of benefit), such as cutting fruit-bearing trees that are in blossom, where the blossoms indicate the upcoming fruits, and the fruit is the benefit of the tree. (Jafari Langroudi, 1988, p. 415)<sup>[4]</sup>

Dr. Naser Katouzian asserts that wherever a deficiency arises in property, a substantial benefit is lost, or harm is inflicted upon one's well-being, dignity, or emotions, it is said that damage has occurred. (Katouzian, 1991, p. 142)<sup>[10]</sup>

### Is Lack of Benefit Harm?

"Lack of benefit refers to the deprivation of an expected advantage. For instance, when someone is deprived of the profit they anticipated from a transaction. In the Imami jurisprudence, material benefit is counted, the transfer of benefit is considered a guarantee, and the destruction of benefit is a harm that needs compensation." (Bahrami Ahmadi, 2010, p. 199)<sup>[3]</sup>

The late Nayini believed that "if the prerequisites and conditions of lack of benefit are met, it is conventionally considered as harm."

For instance, when an employer terminates the contract of a worker or an employee, causing them to be laid off, because the conditions for benefit, i.e., the employment contract, were present, convention deems this lack of benefit as harm. According to Article 9 of the Criminal Procedure Law, one of the damages that is claimable is the benefits that were obtainable and were deprived of by a private claimant due to the commission of a crime.

### "Zaraar" in the Dictionary

"Zaraar" is the verbal noun derived from the root "Zar," meaning harm or damage. (Ibn Manzur, Vol. 4, p. 264)

It signifies causing harm or damage. (Raghib Isfahani, 2007, p. 264)

The views of jurists and scholars regarding the meaning of "Zaraar" are as follows:

"Imam Khomeini believes that 'Zaarar' means damage and is often used in the sense of constriction, distress, and pressure." (Jamali, 2010, p. 66)

"Repetition of the principle of causing harm indicates repetitive harm, as Samara persisted in causing harm to Ansari." (Abdollahi, 2009, p. 248)

"Harm pertains to situations where an individual, utilizing a legal right or permission, inflicts damage upon another, which in contemporary terminology is referred to as 'misuse of rights.'" (Mohaghegh Damad, 2012, Vol. 1, p. 141)

### Meaning of "La" (No) in the Principle of "La Zarar"

Fundamentally, "La" is used in its literal sense to negate a category. It implies that whatever follows "لَا" does not exist in the external world as a whole. However, some consider it to be a negation without prohibition.

### Now, let's explore scholars' opinions regarding the content of the phrase "La Zarar Wa La Zaaar"

#### 1. Intention of Prohibition from Negation

"According to the proponents of this view, the implication of the principle of 'La Zarar' is a prescriptive ruling, not a descriptive one. It means that causing harm to one another is considered impermissible in Islam." (Bahrami Ahmadi, 2010, p. 288)<sup>[3]</sup>

Sheikh al-Shari'ah Isfahani stated in his treatise that the content of the principle "La Zarar" is a divine prohibition from causing harm. If this view is accepted, "La Zarar" would be similar to the noble verse: "No lewdness, no sin, and no disputing during Hajj" (Baqarah/197). If Sheikh al-Shari'ah's view is embraced, the content of the principle "La Zarar" becomes a prescriptive ruling (prohibition of causing harm to others), and therefore it will not imply an obligation to compensate for harm caused. (Bahrami Ahmadi, 2010, p. 292)<sup>[3]</sup>

#### 2. Denial of Non-Compensated Harm

This view is associated with the late Mir Abd al-Fattah Maraghi: When the divine law states "La Zarar Wa La Zaaar," it means that uncompensated harm has not been prescribed in Islam.

"According to the viewpoint of Mir Abd al-Fattah Maraghi, harm that comes with a benefit is not considered harm. For example, when someone gives away a possession and, in return, receives an equivalent value, or when there is harm and the divine law mandates compensating for the harm, the existence of this harm is tantamount to nonexistence." (Haddadi, 2010: 66)<sup>[22]</sup>

#### 3. Denial of Ruling through Negation of Subject

According to this perspective, the ruling of obligation has arisen from the subject itself. Now, if the subject leads to harm, the ruling is lifted. For instance, when we say performing ablution is obligatory, here ablution is the "subject" and obligation is the "ruling." If ablution leads to harm for an individual, the ruling is lifted. In other words, a subject cannot result in harm in Islam. (Mohaghegh Damad, 1391, Vol. 1, p. 143)

#### 4. Denial of Harmful Ruling

According to this viewpoint, the ruling of obligation is initially applied to the subject matter. If the subject results in harm, the ruling is lifted. For example, when we say performing ablution is obligatory, here "ablution" is the subject matter and "obligation" is the ruling. If performing ablution causes harm to an individual, the ruling is lifted. In other words, it can be stated that in Islam, a subject matter that causes harm does not have a ruling. (Refer to "Mulhaqat Makasib" by Sheikh Ansari, p. 373)

The most comprehensive perspective regarding compensating for harm is the view of the late Sheikh Ansari. His view explains that harm can sometimes result from the existence of a ruling, thus leading to its revocation. For example, if ablution is stipulated to require authenticity, and if the ablution involves deceit and causes harm, the

necessity is revoked based on this principle. However, sometimes harm results from the absence of a ruling. In such cases, it is incumbent upon the divine law to institute a ruling to prevent the harm. For instance, when there is no responsibility or obligation to compensate for harm in the event of benefit loss due to death, it means that demanding compensation from the grieving party is forbidden, causing harm. Therefore, a ruling mandating the compensation for harm is established. (Bahrami Ahmadi, 1389, p. 338)

### Pathology of the Principle of "La Zarar" in Environmental Harm Compensation:

#### Does the principle of "La Zarar" allow harm compensation?

Firstly, the principle of "La Zarar" and the primary objective of the Prophet (peace be upon him) in uttering the statement "La Zarar wa La Zaaar fi al-Islam" (No harm shall be inflicted or reciprocated in Islam) articulate a solid guideline concerning the negation of harm and the assurance of compensating for harm. This very concept forms the legal foundation known as "civil liability," which is recognized in contemporary legal jurisprudence worldwide.

Secondly, Narrations from the Imams indicate instances where harm necessitates compensation:

Al-Halabi reported from Imam Hussain (peace be upon him) that he said:

"I asked him about placing an object on the road, causing an animal to react, and its owner was hit by the animal. He said, 'Anything that causes harm to people on the road, its owner is liable for the inflicted damage.'" (Kulayni, Vol. 7, p. 350)

Abi al-Sabah al-Kanani narrated from Imam Hussain (peace be upon him) that he said:

"Whoever causes harm by anything on the path of the Muslims, he is responsible for it." (The same source)

Muḥaddith Nuri, in the book "Mustadrak Dua'im al-Islam," quoted Imam Al-Sadiq (peace be upon him) as follows:

"He was asked about a wall belonging to someone and serving as a barrier between him and his neighbor; if the wall falls or he demolishes it or intends to demolish it, causing harm to his neighbor without a need for demolition. What is the ruling? He said, 'No one can force the owner of the wall to rebuild it unless it was necessary, either as a right to the other party or as a precondition in the original ownership. However, to the owner of the house, the neighbor says, 'If you want, you can build a wall on your property.' It is said to the Imam, 'If the wall is not damaged, but its owner, without a need, intends to harm his neighbor by demolishing the said wall, or he wants to demolish it, what is the ruling?' The Imam said, 'Such permission is not granted to him, as the Prophet (peace be upon him) said "La Zarar wa La Zaaar". If the owner of the wall destroys it, he is obliged to rebuild it.'" (Refer to "Mustadrak," Muḥaddith Nuri, Vol. 3, p. 87)

In these narrations, "harm" has been considered the basis for compensation.

### The Application of the Principle of "La Zarar" (No Harm)

The principle of "La Zarar" in Islam encompasses a vast scope, covering all aspects of human life. Many contemporary issues are related to this principle in various ways.

### **Preferring the Principle of "La Zarar" over the Principle of Dominion**

One of the established and recognized principles in Islam is the principle of dominion, which dictates that every individual has the right to possess and control their property. The principle of "La Zarar" supersedes any harmful verdict, whether it is obligatory or situational. In essence, the principle of "La Zarar" can be seen as limiting the principle of dominion, implying that as long as you have dominion over your property, you should not cause harm to others. Of course, actions such as cutting down trees or polluting the air within one's ownership are permissible based on the principle of dominion, as long as they do not conflict with the principle of "La Zarar". Otherwise, the principle of "La Zarar" takes precedence, as the collective rights of society take precedence over individual rights.

#### **Article 159 of the Civil Code states**

"If someone wishes to revive a piece of land near a river, if the water in the river is abundant and does not cause harm to the previous landowners, they can use the river water to irrigate the new land. However, they do not have the right to divert the water, even if their land is higher than the other lands." (Mansour, 2007, p. 44)

### **The Principle of "La Zarar" and Its Relationship with the Environment**

From the teachings of the Quran, it is evident that trespassing and causing harm to the natural environment and resources is a sin and a crime that invokes the wrath of God and brings about human downfall. Therefore, appropriate punishments can be identified and determined based on Islamic legal principles.

The principle of "La Zarar" does not solely pertain to personal harm; it also encompasses public harms, and environmental damages typically fall into the category of public harm. These damages can seriously jeopardize the survival of human life. Consequently, it can be said that the legal principle of "La Zarar" serves as a strong foundation for environmental protection and is a fundamental Islamic jurisprudential principle that can help solve many environmental issues.

In essence, this principle is the spirit underlying all Islamic laws. According to this principle and ruling, any form of appropriation, alteration, or utilization of human society and nature that leads to the deprivation of others' rights is illegitimate in Islam, both in the process of legislating laws and in their execution. This is because such actions result in causing harm to people, and in Islam, there is no room for causing harm or loss.

Some of the environmental issues that can be discussed within the framework of the principle of "La Zarar" include:

1. Disposing of waste in areas that are harmful to both humans and the environment, such as oil-contaminated waters and underground water tables.
2. Unauthorized exploitation of natural resources, such as oil and gas wells, which can harm future generations.
3. Illegitimate use of heavily polluting vehicles and non-standard factories, particularly near urban areas.
4. Creating noise pollution that disturbs citizens, such as the noise generated by factories located near cities. (Amiq, 2009, pp. 5-6)

Consequently, any behavior by people that results in environmental harm is considered unlawful and subject to prohibitions. Additionally, the responsibility and liability arising from any destructive actions fall upon the one causing the damage.

### **Pathology of Civil Liability for Environmental Destruction**

In cases where the laws impose punishments in addition to compensatory damages for those committing harmful acts, appropriate courts, either "criminal court of first or second," are designated to handle the matter. According to Article 302 of the Criminal Procedure Code of 2013, if the crimes committed result in life imprisonment or a degree-three and higher discretionary punishment, only the Court of First Instance has jurisdiction over the case. This court can also order the defendant to compensate for the damages under Article 14 of the same Code.

For instance, according to Article 11 of the Clean Air Act of 2017, if a violation of air pollution occurs from a production, industrial, or service unit, contrary to the regulations of the Environmental Protection Organization, the offender, in addition to fines, is obligated to compensate for the damages. Failure to compensate or comply with ruling authorities' decisions will lead to legal action and a level-four punishment under Article 19 of the Islamic Penal Code of 2013.

Moreover, it should be noted that since the environment is considered part of public property, and the conflict resolution councils lack jurisdiction over cases related to public property, disputes concerning the environment cannot be referred to these councils. The rationale behind this is that conflict resolution councils are formed for the sake of peace and are not qualified to handle disputes related to public or government property. According to Article 139 of the Constitution, disputes concerning public and government properties are referred to arbitration, subject to the Cabinet's approval and the notification of the Islamic Consultative Assembly.

In cases related to public order and the protection of public properties, if the Environmental Protection Organization files a complaint based on Article 18 of the Hunting and Fishing Act or Article 14 of the Environmental Protection and Improvement Act, it is the public complainant or claimant who initiates legal action in court. Since the interests of the public are at stake, the option of a private complainant does not exist, and a criminal court will handle the case. However, in cases where a private individual is the plaintiff and seeks compensation for damages without reporting a crime, civil courts, according to Article 10 of the Civil Procedure Code of 2000, have jurisdiction over the matter.

If the environmental damage is caused by governmental entities, and a private individual incurs the damages, they must file a claim for compensation in the Administrative Court. As previously mentioned, the Administrative Court has jurisdiction over cases related to civil liability of the government and its employees for damages resulting from administrative actions and decisions. This jurisdiction is limited to cases involving actions that result from abuse of government authority, violation of laws, or the incompetence of decision-making officials, causing damages to private individuals. Therefore, the Administrative Court's role is limited to government

misconduct, and after confirming administrative errors, the general court is responsible for ordering the government to compensate for the damages, according to Article 10, paragraph 1 of the Law on the Formation and Jurisdiction of Administrative Courts (2013).

In cases where the basis of government liability is not negligence, the Administrative Court has no role in adjudicating the matter. The damaged party can file a claim for compensation against the government in a general court without being obligated to initiate the case in the Administrative Court first.

If a violation is committed by a governmental organization and the Environmental Protection Organization is the complainant and private claimant under Articles 11 and 12 of the Environmental Protection and Improvement Act (2017), as the organization operates under the supervision of the executive branch, any claims filed by it are considered government claims. If both parties involved are government entities and they are unable to resolve the issue through negotiation or higher-level authorities, the general courts have jurisdiction over the matter based on the Supreme Administrative Court's unified ruling regarding the general jurisdiction of judicial authorities in cases involving government entities against each other.

Regarding compensable damages, it is essential to note that some types of damages are recognized as compensable under environmental laws. For example, the first provision of Article 29 of the Law on Prevention of Air Pollution (1995) states that owners and officials of polluting factories and workshops are liable not only for the mentioned punishment but also for compensating the damages inflicted on the environment and individuals.

The provision akin to this can be found in Subsection 2 of Article 11 of the Clean Air Act of 2017. Similarly, in Article 13 of the Law on Protection of Bordering Seas and Rivers from Oil Pollution (1975), it stipulates: "In cases where violations of the regulations of this law lead to any form of damage to Iranian ports, seas, cargoes, or other coastal installations, or cause harm to aquatic life and natural resources, the court will order responsible parties to compensate for the incurred damages."

In light of these provisions and analogous regulations found extensively within various environmental laws, the discernment can be made, and it can be asserted that pure environmental damages (damage to nature rather than individuals) are claimable if they are explicitly recognized as compensable within specialized laws related to environmental conservation. The authority to lodge complaints and present the matter in court rests with the Environmental Protection Organization or any other rulingvant entity whose domain of activity has experienced destruction. Article 14 of the Law on Environmental Protection and Improvement enunciates: "For offenses stipulated in this law, the rulingvant organization or private complainant is recognized."

Alongside the Environmental Protection Organization, the subsequent rulingvant entity in the realm of the environment holds the jurisdiction to file claims. For instance, the Forests and Rangelands Organization may claim compensation for damages inflicted upon these areas. Correspondingly, in accordance with Clause 4 of Article 23 of the Law on Conservation and Exploitation of Forests and Rangelands, the Head of the Forestry Organization, representing the government, possesses the right to represent the government

in all lawsuits pertaining to the Forestry and Rangelands Organization, including both administrative and judicial proceedings involving private domestic and foreign institutions.

Conversely, concerning damages incurred by private individuals, specifically traditional damages (environmental damages affecting individuals or property), it is possible to rely on them as supported by general civil liability provisions, including Article 1 of the Law on Civil Liability (2018). Moreover, if compensation for such damages is explicitly prescribed in specific laws, individuals can draw on these laws for support. As exemplified by Subsection 2 of Article 11 of the Clean Air Act or Article 29 of the Law on Prevention of Air Pollution, which states: "Owners and officials of such polluting factories and workshops are obliged to compensate for the damage inflicted on the environment, as well as individuals and legal entities." Thus, individuals who have suffered damages due to actions detrimental to the environment, be they financial, non-financial, or physical, can institute civil liability claims.

### Conclusion

The liability arising from environmental destruction possesses a dual nature of both public and private rights. On one hand, since the government oversees various industrial and production activities and can prevent pollution by factories and workshops that harm the environment, it assumes the role of a complainant or a private claimant against nature's destroyers, falling under the purview of public rights. On the other hand, in cases where in addition to the environment, individuals also suffer physical or material harm, they can claim compensation for their damages in accordance with rulingvant laws governing civil liability, thereby falling under the domain of private rights.

The basis of civil liability stemming from environmental damages, considering the characteristics of environmental harm and the broader philosophy and objective of law in protecting the environment, lies in the doctrine of strict liability. This doctrine eliminates the need to prove fault and merely requires the establishment of a causal relationship between the action or omission and the resulting harm for the liable party. In terms of the necessity for compensating the harmed parties, the principle of respect is a universally acceptable foundation. Whether the harmed party is a human or merely nature, the principle of respect justifies the obligation to compensate for their damages.

The nature of liability differs based on the developmental level of governments. Consequently, variations in the responsibilities of developed and developing nations in environmental protection will occur. As previously stated, the diverse criteria for liability have predominantly been predicted through two approaches: 1) Establishing varying standards to predict different commitments, granting a more extended time framework and setting less stringent obligations for developing governments in fulfilling their commitments. 2) Providing technical and financial assistance and technology transfer to facilitate the active participation of developing countries in fulfilling their environmental obligations, ultimately aligning with their core priorities, which revolve around achieving sustainable development and eradicating poverty.

Within the context of poverty eradication, by offering strategies that enable us to attain economic development, the groundwork for the engagement and cooperation of

developing nations is laid to better support environmental conservation. These nations perceive their primary challenge as the lack of development, hence the symbiotic relationship and support from international organizations such as the Global Environmental Facility through concessional loans to these countries and efforts to enhance awareness and up-to-date information provide some assistance in addressing this global predicament. As highlighted earlier, over two-thirds of the world's population is encompassed by developing countries.

When negotiations take shape based on the principle of common but differentiated responsibility, and the interests of each nation are integrated into the treaty according to their level of development, the principle itself can effectively serve as a crucial tool for balancing states' roles. This can lead to outcomes such as encouraging developing nations to engage in negotiations. Given that developing countries perceive entering negotiations and becoming parties to environmental conventions as accompanied by substantial financial and social costs, they exhibit apprehension towards such commitments. Therefore, if greater privileges are granted to these nations, it becomes essential to create motivation for their active participation in environmental activities. The application of the principle of common but differentiated responsibility can indeed facilitate achieving this goal.

The eradication of poverty is attainable through the implementation of economic development strategies, culminating in sustainable development. These concepts are fundamentally interconnected in international environmental law. Sustainable development and the principle of common but differentiated responsibility can work hand in hand. By assigning varying responsibilities to states, the demonstration of the concept of sustainable development becomes feasible.

Continuing, it must be emphasized that the principle of common but differentiated responsibility has its roots in the concept of the common heritage of humanity. In essence, this principle highlights the collective responsibility of nations in safeguarding the Earth's environment, while acknowledging their distinct commitments based on their unique circumstances, situations, and specific needs.

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