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The International Judiciary Confronting the Crimes of the Classified Institutions in the Environment

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Abstract:

In light of the growth of the seriousness of the damages resulting from the activities of the classified institutions, the various countries of the world hurried to the repercussions of this pollution to try to find effective and effective solutions. The latter contributes to the protection of the environment in its various elements of such dangerous practices. It was delivered in the end the necessity of interfering with the international judiciary in a series of efforts made within the framework of protecting the environment from the waste of industrial activities of the classified institutions. It has been an effective means in the field of environmental disputes, especially those that are characterized by gravity and danger. Evidently, for the embodiment of that, many judicial rulings were issued in the field of cross-border pollution due to the devastating institutions of the environment.

Keywords: Classified enterprises, industrial activity, international courts, transboundary pollution

1. Introduction

Various environmental crimes committed by institutions classified a modern pattern of crimes that resulted from a severe and dangerous deterioration that threatens life on the surface of the earth. This precipitated the necessity of serious and rapid intervention to protect the environment in its various elements, especially in light of the overcoming of this problem borders and distances where a global problem that all countries suffer both, especially in light of the acceleration of the movement of industrial and

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technological development, despite what is calculated for this development from Many positives achieved at various levels that cannot be denied, but at the same time contributed to increasing the risk of environmental pollution resulting from the waste of classified institutions, which caused great harm to human life and all living organisms, but rather led to a change in the components of nature itself, which necessitated the sound of the alarm. Where the various countries of the world were rushed under the influence of the repercussions of environmental pollution resulting from the activity of this type of institution to enact legislation that aims to protect the environment from such serious practices, but internal laws are not sufficient alone to address this type of serious crime because of the global nature it carries as a cross -border crime whose impact exceeds the limits of one state to extend to more than one region, so it was obligatory for the intervention of the international judiciary alongside the judiciary besides the judiciary besides The national intended to support environmental protection efforts from the crimes of the classified institutions, as many judicial rulings in the field of cross -border pollution were issued in this field due to the destroyed institutions that destroy the environment, so that the international judiciary constitutes an effective means in the field of environmental disputes, especially those characterized by gravity and danger.

In this regard, many relevant international agreements encouraged states to present their environmental disputes over the international judiciary, especially when the internal means are unable to address these criminals, which leads us to research the role of the international judiciary through international courts specialized in consideration and adjudication of the crimes of classified institutions that are in the environment, by touching on the most important international judicial agencies in protecting the environment from the harms of classified institutions.

2. International Court of Justice

It is one of the most important international courts affiliated with the United Nations, which started its work on July 01, 2002, taken from the city of The Hague, the Netherlands, is its seat, working to bring views of views, liquidate international differences and develop legal rules, which reflects the importance of the role that this court is supposed to play, despite the humility of its role in this field (Sarrhal, 1990, p. 459), And in an explanation of its role in the field of settling disputes related to environmental crimes, it will start starting with the formation and

competencies of this court, before presenting the most important judicial applications of the court within the framework of the settlement of environmental disputes.

2.1. The Formation of the International Court of Justice

The first article of the Basic System of the International Court of Justice states that: "The International Court of Justice, which is established by the United Nations Charter, is the main judicial tool of the authority and begins its functions in accordance with the provisions of this statute." Article 92 of the United Nations Charter considered the International Court of Justice as the main judicial tool of the United Nations (This is explicitly within the text Article 92 of the United Nations Charter.(According to the text of the second article of the statute of the court, the latter is formed by independent judges who are elected by persons with high moral characteristics who are hateful in their country the qualifications required for appointment to the highest judicial positions or from the lawmakers who are known for their efficiency in international law regardless of their nationality (This is explicitly within the text of Article Two of the Basic System of the International Court of Justice).

2.2. The competencies of the International Court of Justice

Resorting to the International Court of Justice is one of the legal means for the settlement of international disputes, as it becomes clear from the statute of the court that it takes two types of specializations, the first is judicial and includes, according to the text of Article 36 of the Basic System of the International Court of Justice in its first paragraph: “All the cases presented by the litigants, and all the issues stipulated in particular include in the United Nations Charter or in the treaties and agreements in force.” A consultant, whereby the court can, according to the text of Article 65 of its Basic Law: "to break up any legal accountability at the request of any committee authorized by the United Nations Charter of its referendum or obtained the license for it in accordance with the provisions of the aforementioned charter".

The court shall issue its rulings on the cases presented to it by the majority of the judges present, where the vote of the president or whoever takes his place is likely to be equal to the votes, and the court issued its ruling permanently as its effects are produced only for the parties to the dispute

before the court, where each member of the commission is obliged to submit to the ruling issued by the court in any case in which a party is in it (This was imposed by Article 94 of the United Nations Charter), In the event of refraining from the implementation of the ruling issued by the other party villas, the Security Council is reviewed, as the latter issues the appropriate recommendations or decisions it deems appropriate to compel the state against which the ruling was issued against its implementation.

Referring to the cases presented to the court since its inception, the majority of it relates to the demarcation of the border, whether by land, sea or air, but with the aggravation of environmental problems, countries began to resort to the International Court of Justice to decide on international environmental disputes (International environmental disputes were known in 1975 as: "Any dispute or conflicts in the views and interests between countries related to change that is through humanitarian intervention in the natural environment systems." This definition was taken on a smile of briefing and abbreviation, as it came and excludes from the issue of international environmental dispute regarding natural changes and restricting it to his money related to human intervention, as this definition came a year and does not distinguish between the deterioration and improvement of environmental systems Natural, as it did not show the concept of the ecosystem that has become around it at the present time various environmental problems and also circulates mainly in international discourse. See this: (Rabhi, 2015, p. 59), Especially in light of the presence of a special environment room with the International Court of Justice that applies the law of the court regarding the conditions for accepting the case, and in this regard the International Court of Justice considered several cases related to the environment directly or indirectly, and despite the lack of cases in which the court interfered is indirectly in the environmental field, there are some famous cases, This is due to the fact that the international judiciary represents the traditional judicial means whose ruling has worked in environmental disputes resulting from the activity of classified institutions that are dangerous and body (Bou hazma, 2020-2021, p. 438).

2.3. The most important judicial applications for the court in the framework of the settlement of environmental disputes

In view of the importance of the role that most environmental international agreements of the International Court of Justice in settling environmental disputes, we will try to highlight the actual role of this apparatus by

presenting applied studies of some environmental cases that were presented to the judicial settlement before the International Court of Justice as follows:

the case of the fuse of Trail Trailsmilter

It is one of the first international environmental conflicts that were presented to the international courts between the United States of America and Canada, its facts in the environmental pollution that the wind carried from Canadian mineral fuse factories across the borders of the two countries to Washington in the United States of America, where pollution caused severe damage that affected people, property and other neighboring areas, as a result of the emission of carbon dioxide, where the balance was settled initially through Canada By paying compensation to pollution victims (Shukrani, 2013, p. 135).

In the year 1925, the case was reopened again after the factory added two smokers with the aim of raising the production, which led to more pollution and environmental damage, so the US government filed in 1927 a lawsuit against the Canada government, where the two parties were agreed to refer the conflict between them on the arbitration body to demand compensation for those damage, and the two parties signed an initial settlement in 1935 where the issue of responsibility was resolved and the government was obligated The Canadian by paying compensation to resolve the cases of damage to the activities of the fuse before the year 1932, but for the period that followed this date only, the jury asked the answer to four questions, respectively (Bou hazma, p. 440):

• Did the fuse caused harm after 1932, and if so, what is the compensation to be paid as a result?

• If the answer to the first question is in the affirmative, the factory must refrain from causing any damage in Washington in the future, and if he does so to what extent?

• In light of the previous question, what are the measures that the fuse must take or maintain?

• What is the compensation to be paid in light of the court's decision?

On April 16, 1938, the Arbitration Court responded to the question related to the damage caused by the factory, as it decided that Canada would pay

compensation for the purpose of cleaning the polluted land, and that the fuse will undergo a temporary system that continues in its work, provided that it includes refraining from damaging the damage, in addition to the installation of control equipment for pollution, but regarding whether the fuse must refrain from causing damage to the American land and if the response is in the affirmative To what extent, the court has defined the appropriate principles and decided that it is necessary to take into account international law and international practice, as well as law and practice in the US federal states, where arbitrators found that the Air Pollution Law of the United States of America in dealing with semi -sovereign rights of the states corresponds to and the general rules of international law (Breishi, fouq, p. 35).

On the international level, the court emphasized an obligation on the responsibility of any country to protect other countries from the harmful acts of individuals within its judicial authority, and the court also found it difficult to determine what the harmful act means, but regarding the damage of pollution, the arbitration court did not find any international jury related to atmosphere or water, but the court was martyred by the ruling of the Supreme Federal Court of the United States of America, and the matter relates to the decision of air pollution that concerns the state of Georgia and a manufacturer She forgets copper and sulfur, as she emphasized that the state has an interest in all the land and air that falls within its sovereignty and that it is a logical and reasonable request that the air should not pollute over its territory (Bou hazma, p. 440).

The first judgment of this court came, stressing that: "According to the rules of international law and the laws of the United States, no country has the right to use its region or allow it to be used in a way that leads to the events of the flying fumes, the damage of the region of another country, or the property of individuals living above it, if the damage is proven with clear and convincing evidence".

As for the third question that was presented to the court regarding the future related to the procedures or system that it must take should aim to remove any future damage that falls on American lands as a result of air pollution, and in the event that the factory fails to act according to the matter that was issued to prevent the cause of more damage, the court and in response to the question of future damages approved the principle of

compensation based on the agreement between the governments concerned (Hassouna, 2015, p. 85).

Accordingly, the settlement of the court in itself is a precedent worthy of attention because it announces two important principles (Breishi, fouq, p. 37):

The first relates to the responsibility of the state for pollution, which is from its territory and the damage of the lands of other countries even if it is not possible to isolate pollution work that state itself or its devices, and therefore the state may be responsible for not enacting the necessary legislation and not applying its laws against persons subject to its sovereignty or judicial authority, as it bears the responsibility of not prohibiting any illegal activity and not punishing the person responsible for that activity.

The second relates to the approval of an international legal rule that attends the cross -border pollution, and the court also devoted a framework or formula for the future that requires recognition of the necessity of more cooperation between the countries concerned.

On March 11, 1941, the final arbitration court ruling was issued, stating that, according to the principles and rules of international law, according to the laws of the United States, it is: "No country has to use its region or allow it to be used in a way that brings damage to the territory of another country or the property of individuals living above it (Hassouna, p. 86)."

the issue of the paper door factories

Despite the abolition of the International Court of Justice of the Environmental Chamber, which was present at its level, this did not prevent the courts from looking at environmental disputes, and in this context it was resorted to deciding on the conflict related to the factories of the door of the paper on the "Rio Uruguay" that placed Argentina and Uruguay in a sharp conflict in 2006 (Bou hazma, p. 441).

The content of the dispute is summarized in Argentina's resort to the International Court of Justice to demand the cessation of the construction of paper factories by Uruguay, due to its violation of the 1975 treaty that regulates the status of the "Rio Uruguay" river between the two countries, where each party is committed under this treaty consultation before taking action that would affect the border river between them, in addition to the

commitment of the parties concerned with preserving the natural environment of the river and preventing Its pollution, as it decided to establish an administrative committee for the river working to organize and coordinate the use of the waterway, but this committee was unable to contribute to preventing the outbreak of this conflict or its dissolution, as Argentina considered the construction of Uruguay for such factories to violate the environmental system of the river (Bakai, 2014-2015, p. 235).

In the same context, the residents on both sides of the river expressed their concern about the amount of sewage and other toxic substances that could affect agricultural lands and biological pollution in the region, and that Argentina saw that it will not reap any economic benefit from this project, but on the contrary, as its implementation will lead to damage that cannot be repaired with the environment of the country and its economy, especially the agricultural, food and tourism sectors, and Argentina stressed that Uruguay, unilaterally, agreed to construct the factories, ignoring the mandatory dangers and the prior consultation that it was supposed to do within the framework of the joint cooperation mechanism, and that Uruguay was violated by taking all necessary measures for optimal and rational exploitation of the river to preserve the water environment and prevent pollution, , And commitment to preserving biological diversity and fish traps, and accordingly only Argentina submitted a request to take temporary measures, the most important of which is the immediate suspension of construction permits and stopping work, and the court also preserved the guarantee of Uruguay's cooperation, as it stated that it did not fail in any of its obligations and that construction and operation projects for pulp mills are fully compatible with the laws and regulations in place where environmental impact studies were conducted In compliance with national legislation (Hassouna, p. 41).

Given that Argentina did not provide sufficient material evidence only, the court rejected its request and allowed Uruguay to continue to exploit its factory, as the court stated that it was possible that the arguments of Argentina were stronger if it proved that construction and operation of confusion mills leads to the pollution of the river water and causes harm to the environment, and in its ruling issued on April 20, 2010 the court stated that Uruguay was partially violating the treaty organized to place a river Uruguay, but it concluded that it did not violate any basic commitment under this situation and did not demand the suspension of the factory's work or

grant compensation, and mentioned the commitment of the two parties to cooperate to find solutions that reconcile economic development and environmental protection (Bakai, p. 240).

In this context, environmental activists stated that the International Court of Justice has its decision has ignored the principle of caution in which Argentina pushed, a principle that helps in decision -making in environmental issues Raghad despite the lack of certainty about the environmental harm and danger of the activity, asking about the extent of his existence he wanted to do with the International Court of Justice in order to contribute to the development of international law of the environment (Bin Qatat, 201, p. 213).

3. The International Court of the Law of the Sea

The International Court of the Law of the Sea as an independent judicial body under the United Nations Agreement on the Law of the Law of 1982, specializes in any dispute related to the interpretation or application of the agreement as well as all issues stipulated specifically in any other agreement giving the International Court as a judicial jurisdiction, and is represented by the conflict related to the agreement mainly in setting the borders of maritime areas and maritime navigation and maintaining living resources in the sea and their management And protecting and preserving the marine environment, as its decisions are issued in definitely binding on all parties to the conflict who have to comply with it, and its decisions will be an argument for the conflicting states, which leads us to explain the formation of this court, as well as its powers in preparation for presenting the most important judicial applications that were presented to this court within the framework of environmental disputes.

3.1. the formation of the International Court of the Law of the Sea

In its formations, the court includes 21 independent members, who are elected from among the people who have a wide fame in fairness and integrity and are well -known for their efficiency in the field of the Law of the Seas, where each country nominates no more than two people who have the aforementioned conditions, they are elected for a period of nine years, and they may be re -elected provided that the membership of seven members of those who were elected with an end (Rabhi, p. 50).

3.2. the competencies of the International Court of the Law of the Sea

Resorting to the court is available entities other than the states of the parties in each case explicitly stipulated in the eleventh part, or in any case referred to the court in accordance with any other agreement that grants jurisdiction to the court that all parties accept in that case, and Article 288 has expanded in its second paragraph of the field of objective jurisdiction of the International Court of the Law of the Law, and many agreements that were approved before and after entering into force the possibility of resorting to this court to settle the disputes related By protecting the maritime medium against pollution, examples of the London Protocol of 1996 attached to the London Agreement of 1972 related to the prevention of the pollution of the seas resulting from dumping waste and other materials, Article 16 gave in its second paragraph of this protocol the possibility to the parties to the conflict by choosing after a period of 12 months of its failure to resolve the dispute related to the settlement and application of the protocol resorting to one of the means mentioned in the text of Article 278 in its first paragraph, including the International Court of the Law of the Sea that can be used to resolve the dispute (Bouthaldja, , 2017- 2018, p. 98).

Accordingly, the countries that have a legal personality are not only who can resort to the International Court of the Law of the Law, as the field has become open to entities other than states, in order to overcome the criticism directed at the International Court of Justice and the palaces that have worked on the work of the latter, especially with regard to environmental disputes that must be remedied by expanding the bodies that can resort to this court and extend it to non –states (Bin Qatat, p. 215).

3.3. the court's judicial applications within the framework of the settlement of environmental disputes

This case is due to the date of November 09, 2001, when Ireland deposited a request to the International Court of the Law of the Law that the latter issues an order to take urgent measures against Britain in accordance with the text of Article 290-5 of the United Nations Convention on the Law And radioactive waste in the width of the marine water for Ireland, as the risk of pollution associated with the increase is caused by the development of the factory activities (Rabhi, , p. 50), And Ireland established its defense for Britain's lack of respect for the obligations that Article 206 of the United Nations Convention on the Law of the Sea, and this allowing Britain to

practice the activity without a evaluation study proving that the activity does not leave severe effects on the marine environment outside the borders of its territory, that is, Britain, in addition to the absence of assessing the possible effects of the activity in the absence of any reports stating the evaluation and issuance Results according to the text of Article 206 of the Law of the Law of the Law (This article states that: "When states have reasonable reasons for the belief that activities intend to carry out under their mandate or neck may cause a significant pollution of the marine environment or important changes, and harmful in them, these countries intend to practice in practice in practice to evaluate the possible effects of such activities on the marine environment and provide reports on the results of these assessments as stipulated in Article 205").

On the other hand, Britain denied and ruled out the principle of caution in this case because Ireland was unable to provide scientific evidence about whether the factory activities had occurred in pollution and important changes in the marine environment of the Ireland region (Bou hazma, p. 446). On December 03, 2001, the International Law Court issued a ruling to make consultations to exchange information on the effects of the activity by the Mox Factory on the marine environment of the naval region of the State of Ireland, or its monitoring these effects and taking the necessary measures to prevent pollution resulting from the factory pending the final ruling of the International Arbitration Court (Bouthaldja, , p. 105).

The International Court of the Law of the Sea has issued its ruling, which indicated that caution requires the cooperation and participation of Britain and Ireland, by exchanging information about the risks and the likely effects of their occurrence due to the factory activities, and the necessary measures must be taken to confront the dangers, which is unable to adopt the International Court of the Law of the Law of the principle of caution as a legal principle in accordance with the text of Article 206 of the United Nations Convention on the Law of the Law of 1982 (Bou hazma, p. 446).

Several specialists in the field of international law commented on this ruling issued by the International Court of the Law of the Law, where the professor sees: "Morris his speech" that this court "did not come a great contribution to clarifying the principles of" caution and prevention ", but rather the opposite adding the concept of" caution "to the concept of caution" (Rabhi, , p. 55).

The same opinion was that Professor "Toleotrevs" went in his commentary on the rulings issued by the International Court of the Law of the Law, where he believes that: "On cases related to the Mox factory, the court rejected requests of the parties to the conflict in which it provokes the application of the principle of caution, but indicates the idea of caution and caution to support that it is urgent to the parties to adhere to the principle of cooperation" (Bou hazma, p. 447).

4. International Criminal Court

It is a permanent and independent court and a major support from the pillars of establishing international criminal justice on the global scene, established under the Rome Treaty on July 17, 1998, which specializes in the trial of the perpetrators And its powers.

4.1 the formation of the International Criminal Court

The International Criminal Court consists of our distributors judges on two bodies, the Presidency and Judgment Authority, or what is known as the rule of prosecution, and the latter represents three preliminary, primary and appellate people, whose judges are 18 judges who are elected by secret voting at the meeting of the Association of State Parties, which is a consulting committee to consider nominations, among the people who are nominated by the states of the Rome system for this purpose, provided that it does not exceed the number The candidates by one state are one of its citizens or the subjects of one of the states parties in the Rome system, provided that he gets the largest number of votes and a majority of two - thirds of the votes of the present parties (Baba, 2018, p. 76.(

In the event that the position of one of the judges appears for any reason, another judge is elected in the same specified procedures, as the new judge completes the remaining period of the mandate of the former judge (Baba, p. 77).

4.2. the competencies of the International Criminal Court

The jurisdiction of the International Criminal Court at the present time in terms of the subject according to the text of the fifth article of the Basic Law has four international crimes, the crime of genocide, war crimes, crimes against humanity, and aggression crimes, which leads us to ask about the subject of environmental crimes, especially those committed by institutions classified within these international crimes that the International Criminal

Court specializes in, which authorizes it to consider this type of crime that violates The environment in its various components.

4.2.3. the jurisdiction of the International Criminal Court in the consideration of environmental crimes

As a result of the limited jurisdiction of the International Criminal Court in relation to environmental crimes, this court has declined to decide on many of the cases that were brought before it, which include elements related to the destruction of the environment and rare cultural monuments, due to its lack of jurisdiction in the eyes of these crimes, especially those resulting from the activity of the classified institutions (Maash, 2017, p. 90).

However, this situation changed the beginning of September of the year 2016, when the extension of the jurisdiction of the International Criminal Court was announced, to include crimes that affect the environment and constitute a destruction for them, for example the misuse of lands and the illegal extraction of land ownership of their owners that can fall within the crimes against humanity, in crimes of seizing lands that the court included in its mandate committed by investment companies with support and facilitation of governments, which led to confiscation Many lands and thus the displacement of thousands of population and the perpetration of cultural genocide against the indigenous communities of these lands (Maash, p. 92).

Among the cases that are expected to be considered by the International Criminal Court after expanding its powers that case, which was raised by lawyer Richard Rogers on behalf of ten Kambodian citizens claiming that the private sector company in the country in collusion with the central government has committed environmental crimes that led to the confiscation of the lands of approximately 250 thousand people in 2002, and it is expected that this lawsuit will be formed if the court considers the first cases It is discussed in the Hague Court from the endoscopy of environmental crimes that were classified as a crime against humanity (Maash, p. 92).

Accordingly, the decision issued by the International Criminal Court, considering environmental crimes, especially the activities of the classified institutions, is its qualitative transfer in the field of international environmental judiciary, as it allows the punishment of environmental crimes before the International Criminal Court and to address the most dangerous crimes on the environment (Bou hazma, p. 449).

In the same context, the International Criminal Court decided to consider major environmental crimes that include environmental destruction and the seizure of lands under the pretext of setting up huge investment projects, which lead to desertion and destruction of areas for thousands of residents as crimes against humanity, which requires the necessity of being tried by those responsible before this court, and an embodiment of that, the practical prosecutor of the International Criminal Court issued a policy paper entitled: "The choice of cases and priorities", stated, stated. Accordingly, the crimes of the seizure of lands have become common in many regions around the world, as these crimes are committed by investment companies for facilitating and supporting local governments, which led to the confiscation of tens of millions of hectares during the past ten years, This matter has led to the displacement of thousands of people and the cause of cultural extermination crimes of indigenous communities (Bou hazma, p. 450).

5. The International Court of Environment Project

The failure of previous international methods in resolving environmental disputes, especially those arising from the activities of the classified institutions, has the need to consider the feasibility of the establishment of an international court specializing in considering environmental issues, as a global legal institution that would observe scientific and technical evidence between environmental issues and international crimes to achieve justice, working to separate environmental disputes and explain and explain existing environmental international treaties and other obligations, , Especially in light of the environmental deterioration that has become threatening the survival of mankind and which is difficult to contain due to the international moving nature of pollution of all kinds, which makes it difficult to arrest the perpetrator of environmental crimes in the classified institutions, in addition to the failure of national courts in addressing some violations because of its departure from its jurisdiction, in addition to the pressures practiced on these courts in the event that the state accused of pollution with international influence (Rabhi, , p. 56) .

The idea of establishing such a court was presented at the beginning of a conference: "Rio" in 1992, but this project did not see the light as it was withdrawn at the end of the conference from the final documentary agenda, due to the lack of political will for some countries, as was the proposals of Mr. "Amideo Postiglione" judge in the Supreme Court of "Dicassazion" and the origins of the International Environmental Court (I.C.E.F) is more

specific and modern regarding the court project International Environment, in a conference held under the auspices of the International Court of the Environment (Bou hazma, p. 451), Which leads us to address the proposed international environmental court project, as well as its powers and procedures.

5.1. About the proposed project related to the International Environment Court

The International Court of the Environment as an international non - governmental organization recognized and approved by the United Nations Social and Economic Council, as well as the Agriculture and Food Organization and the European Council with a project related to: "International Environmental Court", is chaired by Sharafia, President of the Italian National Academy, former Minister of Justice of Italy and former President of the Italian Constitutional Court, Professor Giovani Conso: " The founder of the court is the honorary president of the Italian Court of Cassation: "Ameno Postiglione", who is the Vice President of the European Union Environmental Issues Forum, The project presented the legal reasons for supporting the establishment of an international judiciary, and among the stating: "Although the creation of political mechanisms to avoid disputes between states and compliance mechanisms, which have become widespread in most legal instruments, which are non -collision mechanisms of good in terms of practice, they sometimes fail to reach the dispute to the end" (Rabhi, , p. 56).

Hence, the need to establish an environmental international court has emerged, which will be effective to adjudicate environmental disputes, especially those resulting from the classified institutions, as well as facilitate communication and exchange of experiences between countries and rely on judges with scientific and legal experience in addition to the use of judicial advisers and specialized committees to ensure a fair trial (Bou hazma, p. 451).

5.2. the competencies of the International Court of the Environment

According to the proposed project related to the International Court of Environment (I.C.E), the latter's tasks are the following (Rabhi, , p. 56):

• Environmental protection as a basic right of human rights in the name of the international community.

• Decision in international environmental disputes that involve the responsibility of countries in the international community.

• Deciding on any dispute related to environmental damage caused by private or public parties, including states.

• Take urgent precautionary measures at any environmental disaster related to the international community.

• Providing fatwas in important issues related to the environment at the global level, at the request of the United Nations or other members of the international community.

• Arbitration at the request of the parties to the conflict.

• Carrying out her request according to what she considers by virtue of her powers is necessary and salt investigations and investigations with the help of independent technology and the use of experts when there are environmental problems or harm.

• The National Court can ask the court to file a preliminary ruling on the national or international nature of the case.

5.3. the procedures of the International Court of the Environment

• The procedures that govern the functioning of the International Environmental Court are as follows:

• The court holds five judges, as the judge appointed the president and scheduled by the president of the court.

• The court holds its sessions openly.

• The right to defense is guaranteed to all parties.

• The court must issue its ruling.

• Civil penalties include a judicial warning or an order against the party against which the ruling to reform the environmental damage if possible, so if this is not possible, the court requires compensation, and it is issued to pay in favor of the World Environment Fund "WEF.

• It is entrusted with the implementation of the provisions to the United Nations Security Council.

The court is subject to its regulations and determines its procedures in terms of litigation, as the following parties can appear before the court:

• Individuals.
• Non -governmental organizations and environmental societies.
• Countries.
• Patriotic organizations such as the European Union.
• International organizations under the United Nations and the United Nations devices.

The appearance of individuals, environmental societies and governmental organizations is required:

• That the request was raised before the national courts, and the latter has ruled not to accept the request, given that the national law does not address this issue.
• The request is to be decided in terms of acceptance and from an international point of view.
• Individuals and associations may also file a lawsuit for violating a human right in the environment on the basis that they were prevented from accessing information or participating in decision -making or from taking legal measures or in facing environmental problems with seriousness or harm, not international importance resulted from any party to violate international law.

A number of reasons behind the obstruction of the establishment of this court, foremost of which are economic reasons for the major industrial countries such as the United States of America and China, in order to avoid being subjected to judicial follow -up international legal accountability due to pollution of the environment as it occupies the forefront of pollution in the world due to the size of the emission of buried gases and pollutants resulting from the acceleration of manufacturing in such countries (Often these countries hinder the issuance of decisions against them that bear responsibility, so how to agree to the establishment of a court that asks them about their activities, for example, some countries are not convinced of the obligations contained in the climate summit agreement that was approved in Paris December 2015, except after it was confirmed that the agreement does not entail condemnation or claims to compensation), In addition to political reasons represented in the direction of the American administration towards accelerating the pace of industrial and technological development and confronting everything that hinders this pace, for example the position of

former US President "Trump", which is the idea of global warming as a lie aimed at obstructing the manufacturing activity, so it became difficult to reach an agreement in this field in light of the opposition of an important party, and this is evident through the withdrawal of the former American President "Trump" from the climate agreement It is held on June 01, 2017 in Germany, which was relying on the issue of announcing an international environmental court, which makes this project subject to political and economic conditions for unknown (Maash, p. 94-95).

• If the claims from the individual or the association are related to environmental damage, it is permissible for the court to issue a ruling that orders the violator to pay the costs to repair the damage (Rabhi, , p. 59).

5. Conclusion

Although the International Court of Justice is considered an important mechanism in implementing environmental agreements, it has not been resorted to in this, but it contributed to studying several principles contained in international tools during the cases that were presented to it, whether on the road or consulting road, only touched on the principle Pre -evaluation of the effects of activities on natural resources as well as the principle of cooperation.

Therefore, we note, by touching on the role of the International Court of Justice, for example, in settling international environmental disputes and by addressing the most important issues presented to them by the activity of classified institutions "factories". We note the difficulty of resolving international environmental disputes within the framework of this international apparatus and its failure to settle many of them, adding to this the lack of court's dependence on its decisions on the rulings and principles of international law, so it may be more beneficial to expand the jurisdiction of the court as Obsessive in the issues related to humanity, especially the Human Rights Law and International Humanitarian Law.

The development of the international judiciary is not related to the available capabilities as much as its association with the existence of a real want to countries in order to reduce environmental pollution, especially caused by the development of its manufacturing policy, in light of the large

size of the emission of buried gases and pollutants resulting from the acceleration of manufacturing, especially in light of environmental disputes closely related to the industrial development of the major countries, knowing that the human being is the original actor in damaging destroyed damage In the natural environment, And that his actions caused him to destabilize global stability, despite the role that national courts play in addressing the environmental crimes, but it is no longer possible to rely on the state's bodies and their national law to pursue the classified institutions committing environmental crimes, so it is more effective to establish and establish an international environmental court that addresses and separates the environmental issues resulting from the activity classified by the criminal institutions. And civil, Due to the distinction and different of this type of cases from others, what produces the specialization of judges working within these bodies, which will encourage access to an agreement between countries on the existing environmental problems and their solution, as this may contribute to facilitating communication and exchanging experiences between countries in order to ensure a fair trial, in addition to providing actual international protection for environmental systems and assisting national legislation in this field that needs to be completed by international law Real for the environment, which globally contributes to raising awareness of the great responsibility that the classified institutions be borne in order to protect and preserve the environment.

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