

Constitutional Protection of the Right to Sustainable Development(A Comparative Study)

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Abstract. *The concept of sustainable development, despite its increasing frequency in international law literature, is too vague to be clearly defined and implemented. The concept of sustainable development appears in various documents with different, even competing, themes and scopes. Rather than being a simultaneous manifestation of three dimensions: economic, social, and environmental, it is essentially an economic and environmental concept, and economic development is the primary priority for all countries, both developed and developing. By failing to fulfill their obligations to developing countries, developed countries have created an atmosphere of mistrust in establishing global sustainable development platforms. Overall, it appears that although the concept and idea of sustainable development have gained widespread acceptance in international legal literature, and significant efforts have been made to assess the achievement of sustainable development, the unity of the three areas of economic development, social development, and environmental protection still faces challenges. There is a significant gap regarding the theoretical and practical position of sustainable development on the international stage and within the framework of international development law. The importance of this research lies in analyzing the constitutional protection of the right to sustainable development in the Iraqi Constitution and its compatibility with international standards. It also examines the legal and practical challenges facing Iraq, Egypt, and Jordan in implementing this right on the ground, and reviews the role of governmental institutions and civil society in promoting and protecting the right to sustainable development.*

Keywords constitutional protection, right, sustainable development, Iraqi law.

INTRODUCTION

Sustainability can be defined as the continuous process of improving the economic, social, and environmental system. Sustainable development can be defined in economic, social, and environmental terms. According to the environmental approach, sustainability is the absence of long-term deterioration in environmental quality. According to the economic approach, it is the absence of long-term deterioration in individual well-being. However, the most common and established definition of sustainable development is that provided by the Brundtland Commission. According to the Brundtland Commission's definition, sustainable development is development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

Of course, some authors view this classic definition as worthless, as it was introduced to solve global environmental problems but did not directly mention environmental protection. Others claim that this definition is too vague to achieve normative status in international law. Therefore, although the Brundtland Commission's definition of sustainable development has been very influential in public and academic debate, it requires clarification.

Because sustainability is not merely a descriptive concept that provides only facts about a specific issue, but must also offer normative views on how sustainable it is and for whom we should continue. The importance of the Brundtland Commission's definition of sustainable development lies in the possible options and potential developments, not in obstructing them. Another definition provided by the International Law Association (ILA) defines sustainable development as the right of all human beings to enjoy decent standards of living based on active, genuine, and free participation in the development process and in the equitable distribution of the resulting benefits. The ILA also describes sustainable development as the environmental, economic, and social well-being of today and tomorrow.

Article 1 of the Convention on Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific also states that sustainable development is the process of progressively changing the quality of human life as the basic and primary functions of development through economic growth combined with social quality, transforming methods of production and patterns of sustainable consumption through the establishment of ecological balance and regional life-support systems.

Regardless of the proposed definitions, the primary goal of sustainable development is to preserve or increase existing human or social assets, whether natural or man-made, for future generations. From this perspective, development transitions from sustainable growth to sustainable development. Although there is no comprehensive consensus among countries on the concept of sustainable development and its precise scope, it is now considered a concept with the following general characteristics:

- The close relationship between the objectives of economic and social development policy and environmental protection.
- Environmental protection is considered an inalienable right in any development effort.
- The long-term consideration of policy objectives as a shared responsibility of governments.

In general terms, the term sustainable development rights refers to an emerging body of international legal documents and principles that guarantee the interaction between economic, social, and environmental rights for the benefit of present and future generations. The strength of the concept of sustainable development lies in its implicit understanding that economic development and environmental protection are interdependent, and its purpose is to provide a practical solution to the traditional conflict between these rights. Fields: Thus, we

will compare the position of the Iraqi legislator with the positions of other legislations, and we will rely in the comparison on the laws of both Egypt and Jordan.

- **Significance of the Research**

The right to sustainable development is a fundamental right that contributes to the well-being and prosperity of peoples in all economic, social, and environmental spheres. In Iraq, constitutional protection of this right constitutes an important step toward promoting sustainable development that balances current development requirements with the needs of future generations. Hence, this research addresses the importance of constitutional protection of the right to sustainable development in Iraqi legislation. It aims to analyze the extent to which Iraqi constitutional legislation conforms to international standards pertaining to this right, and how to ensure its realization on the ground.

- **Objective of the Research**

The importance of the research lies in analyzing the constitutional protection of the right to sustainable development in the Iraqi Constitution and the constitutions of comparable countries, and the extent to which it conforms to international standards. It also examines the legal and practical challenges facing Iraq in implementing this right on the ground, and reviews the role of governmental institutions and civil society in promoting and protecting the right to sustainable development.

- **Research Problem**

The research problem is represented by the following main question:

Does the Iraqi Constitution guarantee effective protection for the right to sustainable development, and to what extent does this protection apply in Egypt and Jordan? What are the legal and practical obstacles that affect the realization of this right in Iraq and the countries being compared

To answer this question, a set of hypotheses was formulated, including:

1. Hypothesis 1:

The Iraqi Constitution, as well as the constitutions of the countries being compared, provide some protection for the right to sustainable development, but there are legal gaps that may limit the effectiveness of this protection.

2. Hypothesis 2:

The implementation of the right to sustainable development in Iraq and other countries is significantly influenced by political and economic factors, which hinders the full realization of sustainable development.

3. Hypothesis 3:

Iraqi legislation needs amendments or additions to ensure better protection of this right, consistent with international standards for sustainable development, including those of Egypt and Jordan.

- Research Methodology

This research will follow a comparative analytical approach, examining Iraqi constitutional texts related to the right to sustainable development and interpreting them according to international standards.

In addition, it will use a descriptive approach, describing the legal and economic conditions in Iraq and how they impact the achievement of sustainable development.

Chapter One

The Concept of Sustainable Development and Its Dimensions

The term "sustainable development" consists of two words: "development" and "sustainability." "Development" comes from the verb "to grow," meaning to "grow," while "sustainability" comes from the word "to sustain something," meaning to continue existing. Technically, development means an increase in resources and productive capacities. Despite its modernity, the term is used to refer to various types of human activities, such as economic, social, and human development. (Barakat Karim, *The Contribution of Civil Society to the Protection of Human Rights*, 2019)

Technically, economic development means the optimal and balanced use of natural and human resources with the aim of achieving sustainable increases in income that exceed population growth. Social development, on the other hand, aims to improve social conditions by increasing individuals' ability to utilize their resources to their fullest potential, which contributes to enhancing individual freedom, rights, and well-being.

Human development, on the other hand, involves empowering individuals to make their own choices in various areas, such as financial resources, personal security, and politics. It is noteworthy that there is an overlap between these development patterns, as each is closely

linked to the other within a framework of mutual influence. For this reason, some seek to combine all of these patterns under the term "integrated development."

Initially, integrated development referred only to processes that focused on meeting the needs of individuals in the present without taking into account the needs of future generations. However, in 1986, the writing team for the "Our Common Future" report introduced the concept of "sustainable development," which expresses development that meets the needs of the present without negatively impacting the ability of future generations to meet their own needs. Accordingly, the term "sustainable development" is defined as a set of activities aimed at investing in environmental resources to achieve development, reduce pollution, and preserve and develop natural resources rather than depleting or attempting to control them. It also guarantees the rights of future generations to natural resources and prioritizes the satisfaction of basic human needs, such as food, shelter, clothing, the right to work, access to health services, and everything that contributes to improving human material and social well-being. (Fatima Zahra Safsaf, Procedures of the United Nations Human Rights Treaty Bodies, 2014)

Sustainable development is development that requires not depleting natural resources beyond the Earth's regenerative capacity. This means that it requires solidarity between present and future generations and ensuring the rights of future generations to benefit from environmental resources. The literature on sustainable development has provided more than 100 definitions of the term, but the most well-known definition, widely accepted in academic and professional circles, is found in the "Our Common Future" report. Issued by the World Commission on Environment and Development in 1987.

Sustainable development is defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In the context of industrialized countries in the North, the concept of sustainable development is linked to a sustained and profound reduction in energy and natural resource consumption, radical transformations in prevailing lifestyles, a transition to environmentally friendly energy sources, and the refusal to export the industrial development model to the rest of the world. (Salah El-Din Ali, The Solution is in Humanitarian Aid, 2018)

In developing countries or the Global South, sustainable development focuses on utilizing resources to improve the standard of living of the poorest groups. In the economic sphere, this means continuously reducing energy and natural resource consumption and making radical changes in production and consumption patterns.

On the social and human levels, sustainable development aims to stabilize population growth and halt migration to cities by improving the quality of health and education services in rural areas. It also seeks to enhance popular participation in the educational process by providing sustainable learning and training opportunities for all, in line with the needs of changing generations. On the technical and administrative levels, sustainable development means transforming society into an industrial age that relies on the minimal use of energy and resources and produces the least possible amount of polluting gases that contribute to rising temperatures. (Farhat Abbas, *The Role of the National Advisory Committee for Human Rights in Protecting Citizens' Rights*, 2019)

By defining sustainable development, it can be seen that it is based on three basic dimensions, as identified at the Sustainable Development Summit in Johannesburg in 2002: the environmental dimension, the economic dimension, and the social dimension.

The environmental dimension relates to the conservation, maintenance, and rationalization of natural resources. It focuses on protecting the environment through environmental stewardship and anticipating the potential impacts of development on ecosystems with the goal of prevention and mitigation. It is worth noting that environmental concerns differ between industrialized nations in the North and developing nations in the South. Developed nations focus on issues related to the deterioration of the quality of life in the future, such as rising temperatures, the depletion of the ozone layer, and the overexploitation of natural resources. Developing nations, on the other hand, focus primarily on problems such as water pollution and land degradation, and do not place the same emphasis on quality of life as developed nations do in general. The environmental dimension focuses on the relationship between humans and their environment.

The economic dimension seeks to increase societal well-being by eliminating poverty and promoting sustainable economic growth. It also aims to achieve equitable distribution of resources and wealth and improve the efficiency of individuals and institutions involved in implementing development policies. This dimension also includes undertaking general economic reforms to achieve better standards of living and increase per capita national income. The economic dimension is characterized by its efforts to reduce the economic dependence of developing countries on rich countries. (Amira Kazem, *State Sovereignty Before Human Rights Bodies*, 2015)

The social dimension focuses on controlling population growth, as overpopulation poses a threat to the world. This dimension also addresses social justice, from inter-individual to inter-generational justice. It also includes encouraging rational consumer behavior and

avoiding extravagance, as developing societies tend toward waste and excessive consumption, which leads to increased waste, while developed countries tend toward optimal consumption. This dimension also includes the importance of effective public participation in the planning and implementation stages of national development, as participation is the essence of democracy, and its absence frees people from responsibility and hinders the ability to achieve effective performance.

In addition to the three dimensions of sustainable development, there is a fourth dimension related to the cultural and emotional dimension, which has been absent from international negotiations and must be included in these negotiations as soon as possible. This is because raising awareness among the population and integrating the sustainable development goals into people's consciousness is crucial before they can be incorporated into institutions. Although sustainable development is a human right, it is also a duty of the individual, the family, and society. The distinguishing characteristics of contemporary development are the organic link between the economy, the environment, and society (Freddie Sami, *The Status of Human Rights in Light of Current Environmental Challenges*, 2015).

In addition to the aforementioned dimensions, some add another dimension: the technological dimension, which may also be called the administrative and technical dimension. This dimension focuses on the shift toward cleaner, more efficient technologies, enabling society to transition to an era in which it uses the least amount of energy and resources. The goal of these technologies is to produce the least amount of gases and pollutants and implement certain standards for waste reduction and internal recycling.

The technological dimension is considered a crucial element in achieving sustainable development because the transition from material technology to Information technology is essential. This means shifting from reliance on productive capital to reliance on human and social capital. Sustainable development has gone beyond international meetings and seminars to become part of national development plans. It has also become a general culture and a way of life for people who aspire to a better, more just, less marginalized and more prosperous life. It is expected that this culture will become part of the discourse and speeches of leaders and will find a place in the budgets of civilized countries and in the development plans of developing countries. (Nasreen Youssef, *Contribution of the United Nations General Assembly to the Implementation of International Human Rights Law*, 2012)

The concept of sustainable development is a fundamental focus of environmental legislation in both Jordan and Egypt. Both countries seek to achieve a balance between

economic and social development and environmental protection to ensure the sustainability of resources for future generations. Sustainable development is defined in Jordanian Environmental Protection Law No. (6) of 2017 as: "Development that achieves a balance between environmental safety and economic and social development." This law obliges relevant authorities to develop policies and plans that ensure environmental protection and achieve sustainable development. The law's various articles also address mechanisms for protecting natural resources, managing waste, and monitoring activities that impact the environment to ensure sustainability.

As for Egyptian legislation, the 2014 Egyptian Constitution stipulates several articles that reinforce the concept of sustainable development, including:

Article 27: The state is obligated to achieve prosperity through sustainable development and adhere to standards of transparency and governance.

Article 46: The state is obligated to protect the environment, guarantee the right of every individual to a healthy environment, and take the necessary measures to conserve natural resources to achieve sustainable development.

In addition, the State General Planning Law No. 18 of 2022 was issued, obligating the state to prepare a national plan for sustainable development, aiming to achieve balanced social, economic, and environmental development, while taking into account the principles of sustainable resource use. Through these laws, Jordan and Egypt's commitment to promoting the concept of sustainable development in their laws is evident, ensuring a balance between development requirements and environmental protection, thus guaranteeing the rights of present and future generations to sustainable natural resources. (Abdul Qader Awad, Crimes Against Humanity: A Case Study Within Human Rights, 2017)

First Requirement: The Legal Basis for Development Goals

In September 2000, 189 world leaders gathered at the United Nations headquarters in New York for the Millennium Summit. Among those in attendance were 147 heads of state and government, who signed the United Nations Declaration on the Third Millennium Development Goals. The leaders agreed to eradicate poverty in all its forms by 2015. Specific timeframes were set for the goals and targets. The development goals included 8 goals, 21 targets, and 60 indicators by which progress and achievement could be measured.

When world leaders signed this declaration, it was not spontaneous, but rather stemmed from a firm belief and full conviction based on the principles and Charter of the United Nations, as well as the principles of international law. The motivation behind this agreement

was to establish security, peace, and justice, and to affirm shared values such as freedom, equality, and respect for human rights. For the first time, leaders agreed on a fundamental and important issue related to the eradication of poverty and the achievement of sustainable development. (Abdul Qader Awad, Crimes Against Humanity: A Case Study within Human Rights, 2017)

According to Article 38 of the Statute of the International Court of Justice, which is considered one of the sources of international law, the development goals can be considered part of this legal framework. The article states that the sources of international law include:

- International agreements, both general and special, establishing recognized rules.
- International custom, which refers to a general and accepted practice considered as law.
- General principles of law recognized by civilized nations.
- Judgments of courts and the opinions of prominent authors in public law as secondary sources for determining rules of law.

Through this article, international agreements are considered legal foundations upon which development goals are based. The principle of solidarity can also be considered part of the general principles of international law. It is a principle supported by international law, policies, and practices. In some cases, it can be considered customary law in the process of being formulated. This broad international consensus on development goals is considered true international solidarity. It is an essential part of international cooperation and a principle of international law, especially in the field of human rights. (Mohammed Abed Al-Jabri, Democracy and Human Rights, 2018)

International solidarity is a right of individuals and peoples and is part of the right to a democratic system. Article 28 of the Universal Declaration of Human Rights states that everyone has the right to a social and international order guaranteeing his rights. This principle emphasizes the necessity of adhering to this right and forms the basis for defending people's rights, especially in the face of problems such as poverty or terrorism.

Since solidarity reflects compassion among human beings, its value is essential to international cooperation. The United Nations Charter, in its preamble, emphasizes the importance of fundamental human rights, freedoms, and dignity, as well as the achievement of a better standard of living. Article 1/3 of the Charter affirms that one of the purposes of the United Nations is the maintenance of international peace and security. International cooperation is an essential part of this purpose. According to Article 55 of the Charter, it is

the duty of the United Nations to strive for higher standards of living, the creation of employment opportunities, the promotion of economic and social progress, the provision of solutions to international problems, and the promotion of cooperation in the fields of culture, education, and respect for human rights.

Article 56 obligates all Members of the United Nations, individually and collectively, to cooperate to achieve the goals set forth in Article 55. This cooperation and solidarity constitute a legal obligation for the international community. Violation of this obligation constitutes a violation of the principles and rules, which means that international cooperation and solidarity have a legally binding character. (Claudio Raegi, *International Protection of Human Rights*, 2019)

The Universal Declaration of Human Rights of 1948 states that everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages, and education shall be compulsory and vocational education shall be available to all. The International Covenant on Economic, Social and Cultural Rights also refers to the right of everyone to education. These principles are consistent with the Sustainable Development Goals, which are in line with the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, promoting the path to integrated and sustainable development.

Second Requirement: Sustainable Development Goals in Iraq

The Sustainable Development Goals are among the most prominent global initiatives aimed at promoting development and achieving justice and equality among peoples. They are a UN project agreed upon by countries, development institutions, and civil society organizations following the Millennium Declaration in 2000, which represents one of the most important UN resolutions adopted by 147 heads of state. A set of principles and objectives were identified that aim to improve the conditions of the poorest and most vulnerable countries, with a focus on the most vulnerable and marginalized groups. (Lina Al-Tabbal, *International and Regional Human Rights Conventions*, 2010)

In 2003, the UN's mandate was defined by Resolution 1500. On August 14, 2003, the Security Council voted to establish the United Nations Mission in Iraq (UNMI), which included 650 international staff. The mission cooperated with twenty UN agencies and programs to meet Iraq's needs and attracted donors to cooperate with the International Reconstruction Fund. Two funds were established, one administered by the UN and the other by the World Bank, which collected more than \$1.8 billion in donations in 2008. However,

with increasing political pressures, Regional and international pressures, in addition to the shift in the American system and the hostile sentiment of Iraqi factions, led to a decline in international interest, negatively impacting reconstruction efforts. (Khader Mohammed, Introduction to Public Liberties and Human Rights, 2019)

Despite this, strenuous national efforts were made to achieve the development goals until 2015. These goals were incorporated into national development plans in accordance with the United Nations Declaration on Development Goals, the first of which was the eradication of poverty and hunger.

Although Iraq is a country rich in oil resources and enjoys UN support, it faces four major challenges: security and stability, good governance, poor and unequal distribution of resources, and the government's failure to find radical solutions to these challenges. Despite hopes for improvement, the country continues to live in hope of reform without achieving tangible progress in building institutions or improving social justice. The economic situation in Iraq remains deteriorating, with the rural sector suffering from neglect and agriculture declining significantly, exacerbating poverty.

Moreover, the ISIS invasion of three Iraqi provinces and the increase in the number of displaced persons had a significant impact on increasing poverty. A World Bank study showed that the poverty rate rose from 23% to 38%, nearly doubling. (Mohamed Bashir, Human Rights Law: Sources and National and International Applications, 2017)

As for Egyptian legislation, despite the promising opportunities Egypt possesses in the fields of renewable energy and sustainable development, progress in the development rate over the past years remains minimal. This is due to the presence of many significant untapped opportunities, in addition to the presence of some challenges facing sustainable development in Egypt, the most important of which are (Mohamed Abdel Badie, Economics of Protection and Environment, Dar Al-Amin Printing House, Cairo, 2011).

Goal Two: Universal Primary Education

The compulsory and free education system in Iraq has increased the number of children enrolled in schools. However, the school environment has remained inadequate, and this has been accompanied by widespread corruption. School construction contracts have been awarded to corrupt companies that received funds without actually building any schools. Sustainable schools should be built to contribute to achieving the Sustainable Development Goals. Given Iraq's oil wealth, it is unreasonable to expect external support to build schools in a wealthy country plagued by widespread corruption. (Qadri Abdul Aziz, Human Rights in International Law and International Relations: Contents and Mechanisms, 2018)

Goal Three: Promoting Gender Equality and Empowering Women

The Iraqi constitution has extensive legislation that guarantees women's rights and equality between men and women without discrimination. There is nothing preventing women from working, studying, or participating in government, as the percentage of women in parliament has increased. However, the major challenge remains in providing safe and fair employment opportunities for women, free from extortion or abuse. (Ahmed Abu al-Wafa, *The Mediator in Public International Law*, 2017)

Goal Four: Reducing the Mortality Rate Children

The infant mortality rate in Iraq is approaching 17 deaths per 1,000 live births annually, and the rate varies from one governorate to another. Although this rate is considered acceptable, it remains a challenge for the health system, which provides services to all segments of society. This calls for preventive measures, such as improving vaccination schedules and medical immunizations, to ensure children's health and a strong immune system, enhancing their chances of a healthy and long-lasting life. (Hamid Hanoun Khalid, *Human Rights*, 2013)

Goal Five: Improving Maternal Health

The low educational level of mothers, along with early marriage, unplanned childbearing, poverty, and unemployment, remain major obstacles to reducing the maternal mortality rate. To achieve the Sustainable Development Goals, efforts must be made to universalize reproductive health services, meet family planning needs, and promote health education among pregnant women, in addition to supporting health centers in rural and outlying areas.

Goal 6: Combat HIV

Due to the lack of data on HIV infections, Goal 6 was included within a broader framework that includes the control of communicable, non-communicable, and other diseases. Several indicators for this goal were proposed by the National Development Goals Committee. However, achieving the health goals (Goals 4 and 5, in addition to Goal 6) is progressing very slowly and requires support in developing medical capacities. It is also necessary to invest in improving health services to ensure their sustainability and quality. (Lama Abdel Baqi Mahmoud, *The Legal Value of UN Security Council Resolutions in the Field of Human Rights*, 2017)

Goal 7: Ensure Environmental Sustainability

Achieving this goal is a major cognitive challenge, as most of the goal's indicators require extensive knowledge and awareness to ensure the achievement of the specified environmental targets.

In Egypt, addressing the issue of sustainable development requires a thorough study. It contributes positively to increasing human well-being, providing services such as heating, lighting, cooking, transportation, entertainment, recreation, and others. It is also a necessary prerequisite for economic production. However, energy costs detract from this well-being, and they are exorbitant in any case. These costs include the financial and other resources needed to obtain and invest in energy, as well as the resulting environmental and social impacts. These costs may lead to excessive transfers of capital, human resources, and income, causing inflation and a decline in the standard of living (Ibrahim Al-Ghitani and Amani Abdel-Ghani, Renewable Energy Prospects in Egypt, Dar Al-Nahda Al-Arabiya, Cairo, 2012).

Goal Eight: Establish a Global Partnership for Development

Iraq's \$114 billion external debt poses a significant obstacle to establishing effective partnerships. Weak investment and poor security and stability pose additional challenges. The United Nations has been working in Iraq since 1979, and in 2011 launched the United Nations Development Program (UNDP) in partnership with the US Agency for International Development (USAID) and the European Union to develop a development management system. Although the national budget is capable of covering development projects, the squandering of resources and widespread corruption hinder the implementation of these projects. (Al-Aal Al-Dirbi, International Protection of Human Rights in Light of the Provisions of International Law, 2013)

Section Two

The Reality of Establishing the Foundations for Sustainable Development in Iraq and Comparative Countries

Advanced countries are rapidly advancing in the field of sustainable development, while developing countries, including Iraq, are striving to catch up with these countries and are facing significant challenges in achieving this. This is a difficult equation, and appropriate solutions must be found before despair overtakes us and it turns into an impossible mission. The United Nations, through its mission in Baghdad (UNAMI) and its affiliated agencies, is not building factories or companies, nor is it establishing parties or movements. It provides diverse support, international assistance, and advice, along with ideas and experiences in the

field of sustainable development. (Hisham Bashir, "Human Rights: Concept, Historical Development, and Categories," 2016)

Sustainable development depends on achieving two fundamental goals: the first is the right to development. The 1992 United Nations Conference in Rio de Janeiro defined sustainable development as the necessity of achieving the right to development on an equal footing between the developmental and environmental needs of present and future generations. The second is the right to environmental protection, which is part of fundamental human rights. The Stockholm Declaration also emphasized the importance of coordination between development planning and environmental protection. The "Our Common Future" report also emphasized these principles.

Environmental planning is one of the foundations of sustainable development, as people, nature, and technology are the fundamental pillars for achieving the Sustainable Development Goals. The United Nations Mission in Iraq (UNMI) has operated amidst the influence of political parties, regional states, and the laxity of authority, but it has strived diligently to achieve its goals based on the principles of sustainable development (Maryam Raouf, "Generations of Human Rights: Causes and Consequences," 2019).

The most important of these principles are:

1. Development must take into account the preservation of current and future levels of natural resources and ensure the partnership of future generations in benefiting from these resources, especially oil, while preserving them from depletion and waste, as a shared responsibility between generations.
2. Development must not focus on the returns of economic growth, but rather on how to distribute these returns fairly to improve citizens' living conditions and link development policies to environmental conservation as a sustainable development concept. The UNMI has focused on these cultural principles and important information in all its meetings with government stakeholders.
3. It is necessary to review current investment patterns and promote the use of environmentally friendly technologies aimed at reducing damage to the environmental balance and preserving the sustainability of natural resources, especially oil. Unfortunately, these trends have not found a tangible impact in national development plans after 2003.
4. It is not sufficient to merely modify investment patterns and production structures. Prevailing consumption patterns must also be modified to avoid wasteful waste of

resources and environmental pollution, at a time when environmental pollution levels have exceeded permissible limits.

5. The concept of development returns must encompass the benefits accruing to society comprehensively, not limited to financial returns and costs alone, but also encompassing indirect environmental impacts and the resulting social costs that reflect deficiencies in natural resources. (Alaa Fahem, "The New World Order: Future Possibilities: A Foresight Vision," 2019)
6. Democracy, human rights, and national reconciliation have been promoted in community life as a means of achieving development. The United Nations Mission in Iraq has adopted this approach. These principles are taken into account when applying the concept of sustainable development, with a focus on improving the living conditions of all Iraqis. The United Nations also has similar experience in other countries with a one-party system, such as Vietnam, where it has provided support and assistance in similar contexts.

First requirement: Establishing the foundations for sustainable development in drafting the Iraqi constitution

Iraq suffered under the British occupation, which played a major role in drafting the 1925 Iraqi constitution, known as the Basic Law. Their mission, in accordance with the wishes of the British government, was to include measures to strengthen Britain's presence in Iraq by granting broad powers to the king and the High Commissioner, while limiting the powers of elected parliamentary councils. (Khadija Darraqi, Generations of Human Rights, 2020)

In 1970, the Ba'athists drafted a new constitution that granted authority to the Revolutionary Command Council, similar to the king's dominance in the 1925 constitution. After 2003, Iraq found itself under American occupation. According to Article 60 of the Law of Administration for the State for the Transitional Period, a timeframe was set for drafting the constitution. The Transitional National Assembly was tasked with drafting the constitution, completing it by July 15, 2005. Although drafting a constitution required a long time to accommodate the country's circumstances, the new Iraqi constitution was drafted, free of the dominance of dictatorial power, with a focus on achieving balance between the three branches of government and establishing decentralized governance. However, this constitution was affected by the occupation's reputation and was polluted by the interference of extremist religious movements, in addition to the preference of certain groups over citizenship, this established the principle of sectarian quotas through the first Iraqi authority,

the Governing Council, in 2004. (Uruba Jabbar Al-Khazraji, *International Human Rights Law*, 2012)

The Governing Council is considered a legitimate authority, although it did not include all segments of the Iraqi population. According to the 1949 Geneva Convention, the occupying power was responsible for administering Iraq's affairs and protecting civilians, including forming an administration to manage the affairs of state and society, with the political parties and groups represented in the Governing Council.

The Constitutional Committee was formed within the National Assembly to draft the permanent constitution of Iraq, pursuant to Article 60 of the Law of Administrative Justice. However, a dispute arose between the political components regarding the constitutional authority. The National Coalition believed that the constitution should be presented to the religious authority, while the Kurdistan Alliance insisted that the National Assembly was the sole authority. In this context, the United Nations intervened through Ms. Rice, who met with all parties and pushed for a constitutional conference including all Iraqis. She also recommended the recruitment of legal experts from the United Nations, the American Bar Association, and the European Union to support the constitution-writing process. The United Nations' intervention was based on a UN Security Council resolution aimed at ensuring that sectarianism and ethnicity dominate the constitution and protect the building of democracy in Iraq. (Omar Farhati, Badr al-Din Muhammad Shabl, and Adam Belqasem Qabi, *Mechanisms for the International Protection of Human Rights and Fundamental Freedoms (A Study of Global and Regional Protection Mechanisms and Their Procedures)*, 2012)

On May 30, a UN advisor and constitutional expert from South Africa attended a meeting with the Constitutional Committee, where he offered UN support in writing and drafting the constitution. He explicitly explained to those present that the constitution-writing process must be completed. By Iraqi hands, and the United Nations will stand by them by providing support and assistance.

The presence and support of the United Nations for the constitution-writing process, along with Security Council resolutions, are external factors contributing to the democratic transition and constitution-drafting process. The assistance and support of international organizations through specialized departments in the Security Council and UN missions lends credibility to the processes. Electoral and referendum processes within the state strengthen the system adopted by it. (Ibrahim Ali Badawi Al-Sheikh, *International Implementation of Human Rights Conventions: Mechanisms and Key Issues*, 2019)

Drafting a constitution is more important than elections because it determines the future course of the country and the development of its people. The United Nations does not write constitutions, but rather provides models that can be learned from. It has extensive experience in dealing with countries that have transitioned from totalitarian to democratic rule, such as its experiences in Bosnia, Latin American countries, and some African countries. UN missions provide support to the Constitution Drafting Committee, noting that a constitution that does not meet the aspirations of the people will be a very bad constitution. Therefore, the constitution must gain the approval of the people and include the participation of all in its drafting.

The mission met regularly with the main committee and its six subcommittees, and its influence was evident in the drafting of the constitution, despite the political conflicts between fundamentalist, Salafi, and liberal movements calling for a civilian government. While it is necessary to take into account the religious factor, it is illogical to ignore modern intellectual developments, especially regarding rights and freedoms, which cannot be drafted without taking them into account in the era of globalization. Therefore, citizens' rights and freedoms must be guaranteed in explicit and clear constitutional provisions. (Muhammad Ali, Introduction to the United Nations Mechanisms for the Promotion and Protection of Human Rights, 2019)

Despite the insistence of religious advocates in the draft constitution to make Islam the official state religion and a primary source of legislation, this article was restricted with phrases ensuring that the law does not conflict with the principles of democracy or the fundamental rights and freedoms stipulated in the constitution. This is a clear indication of the United Nations' role in all stages of constitution-making.

The United Nations' hallmark is its consideration of democracy as a right and a means to improve life. Political parties and blocs in Iraq often lack this concept in their party culture and literature. Women's rights, and human rights in general, are also absent from the culture of many Islamist parties. However, thanks to the insistence of the United Nations, women's rights were included in the 2005 Constitution of the Republic of Iraq, which stipulates that women have equal rights with men in civil rights, including equality before the law without discrimination based on gender, race, nationality, religion, sect, or social and economic status. Women's rights to life, security, and liberty are also emphasized, with a guarantee that they will not be deprived of these rights except in accordance with the law and a competent judicial decision. (Ali Muhammad al-Dabbas and Ali Alian Abu Zaid, Human Rights and Freedoms, 2012)

The Constitution also guarantees women the right to equal opportunities and their right to citizenship, stipulating that a person is considered Iraqi if born to an Iraqi father or mother, pursuant to Nationality Law No. 26 of 2006. The Iraqi legislature has adopted the principle of equality between men and women in this regard. Regarding political rights, the Constitution stipulates women's right to participate in public affairs, including political participation. Women have the right to vote, elect, and run for office. The constitution also stipulates a quota for women in the House of Representatives, not less than a quarter of the members. This is known as the "quota" system, which aims to represent disadvantaged groups.

In the cultural field, the constitution guarantees women rights similar to men, including the right to education and scientific research for peaceful purposes, and supports their excellence and cultural creativity in line with Iraq's rich history. The constitution also encourages the promotion of women's cultural and creative activities.

Given that the Iraqi Constitution of 2005 represents a civilized and contemporary text, despite the challenges and pitfalls it poses, it remains a major step toward achieving justice and equality in the country. The legislators who drafted the constitution were aware that many Iraqi laws were outdated and inconsistent with modern reality, such as Penal Code No. 111 of 1969, which criminalizes demonstrations. Although Article 38 of the constitution guarantees the right to demonstrate, previous Iraqi laws punished employees who participated in demonstrations. Therefore, it was necessary to amend these laws to keep pace with the changes imposed by the transition from totalitarian to democratic rule.(Riyadh Aziz Hadi, Human Rights (Development, Content, Protection), 2018)

Second Requirement: Successes in Laying the Foundations for Sustainable Development in Iraq and Comparative Countries

On May 22, 2003, the Security Council issued Resolution 1483, which was followed by a series of resolutions defining Iraq's relationship with the United Nations, enabling the international organization to regain its international standing. Resolution 1500 established the United Nations Mission in Iraq (UNAMI), defining its mandate to support the Representative of the Secretary-General in carrying out the tasks stipulated in Article 8 of Resolution 1483. A Special Representative of the Secretary-General was also appointed. Resolution 1511 established a timetable for a political program beginning with the formation of an interim national government and an interim parliament, including the drafting of a permanent constitution and the call for the election of a permanent government. Resolution 1637 then ended the occupation authority and replaced it with an interim national government and

multinational forces at the request of the Iraqi government. (Muhammad Yusuf Alwan and Muhammad Khalil Al-Musa, International Human Rights Law - Sources and Means of Monitoring, 2019)

The UN mission succeeded in achieving remarkable progress in the 2005 elections, contributing to the achievement of a permanent constitution and the formation of a permanent national government, enhancing human rights in Iraq, and achieving significant successes in building the capabilities of the army. The Iraqi Federal Police supported the political system, provided support for the electoral process and constitution-writing, and helped reduce the influence of extremist parties on the political process. It monitored violations in the country, strengthened the role of civil society organizations, and conducted diplomatic efforts to resolve disputes between political parties through quiet diplomacy and finding mutually acceptable compromises.

In the political sphere, the mission provided technical advice on electoral affairs and constitutional drafting. It played a significant role in convening the National Conference in 2004 to select an advisory council to support legal and judicial reforms in Iraq. It also contributed to drafting a unified electoral law, issuing the Political Entities Law and the Election Monitoring Law, and establishing a voter database inside and outside Iraq. Among its most notable achievements was the establishment of an independent national commission composed of 43 experts. (Omar Al-Hafsi Farhani, Mechanisms for the International Protection of Human Rights and Fundamental Freedoms, 2012)

The mission also established a constitutional support office in Baghdad, in addition to a regional office in Amman, which includes experienced legal and constitutional experts. It worked to establish mechanisms for public participation in drafting the constitution.

However, we see that the achievements of the UN mission in Iraq do not match the enormous expectations surrounding it, nor do they match the funds and efforts spent, the time it took, or the UN Security Council resolutions. The mission disappointed the hopes of the poor and deprived and squandered an opportunity for Iraqi society to build a more secure and prosperous future. Indeed, what was achieved led to the emergence of a system of government based on sectarian and tribal quotas, which obscured the spirit of understanding and dialogue and led to the proliferation of weapons and assassinations.

- Consolidating the Pillars of Democracy

Democracy emerged in the eighteenth century as a political concept through the works of prominent thinkers such as John Locke in England and Jean-Jacques Rousseau and Montesquieu in France. The primary goal was to resist the authoritarian regimes that prevailed during that era. Democracy was defined as the rule of the people, the same meaning presented by US President Abraham Lincoln at the end of the eighteenth century, who described it as "government of the people, by the people, and for the people." When the founding members formulated The United Nations Charter of 1945 did not include the term "democracy," which was unsurprising at the time. (Safaa El-Din Mohamed Abdel-Hakim El-Safi, *The Human Right to Economic Development*, 2019)

In 1945, not all UN member states had adopted democracy as a political system, although the Inter-American Democratic Charter mentioned democracy in its first article. The African Charter addressed democracy and elections, and Article 21 of the Universal Declaration of Human Rights included the right to vote. Article 25 of the International Covenant on Civil and Political Rights clearly guaranteed the right to participate in elections and political life. Democracy is not merely a legal form, but a daily practice that impacts all aspects of life. It is a way of thinking and dealing, not a gift or a grant, but rather fundamental and sustainable rights that apply to everyone, including minorities as well as the majority.

Democracy is one of the fundamental values and principles of the United Nations. These are universal and indivisible principles. They are based on the will of the people, freely expressed, and closely linked to the rule of law and the exercise of human rights and fundamental freedoms. In this context, the United Nations has strengthened its efforts in international oversight of national elections by sending exploratory missions to monitor the electoral process and assist people in achieving their independence as part of its efforts to defend human rights. The United Nations has participated in numerous national elections and popular referendums, beginning with its supervision of the elections in Korea (Hamed Al-Saeed, *The United Nations and Peacebuilding Operations*, 2018).

With the development of democratic systems in most developed countries, the end of 1991 witnessed the transition of thirty countries in Southern Europe, Asia, and South America from totalitarian regimes to democracy. In contrast, Iraq remained outside the circle of democratic thought, where tyranny and authoritarianism prevailed, and a culture of intimidation and bloodshed was notorious. Leadership in Iraq was represented by a

single leader, and democracy was merely a matter of pledging allegiance to the president under pressure from police repression, which led to the destruction of lives and the imposition of harsh sanctions. With the fall of the regime and the occupation of Iraq by coalition forces, democracy was introduced as part of the occupation, as it had not been a national choice, it was not a primary goal in the literature of the parties that assumed power in Iraq, although political parties are considered one of the fundamental pillars of the democratic system. They are the tool that contributes to the dissemination of democratic culture and practices. (Barakat Karim, *The Contribution of Civil Society to the Protection of Human Rights*, 2019)

- In promoting human rights and freedoms

As a result of gross violations of human rights, they were included in the 1945 United Nations Charter, which included many articles that gave human rights universal value. Article 1, paragraph 3 of the Charter states that one of the purposes of the United Nations is to "achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, religion, or race." (Muhammad Anas Jaafar and Ahmad Muhammad Rifaat, *Human Rights*, 2014)

The Universal Declaration of Human Rights, issued by the United Nations in 1948, a fruit of the United Nations Charter, also included the principle of respect for human rights, as stated in Article 2. The Declaration was a first step towards developing human rights agreements, such as the Convention on the Elimination of All Forms of Discrimination against Women. The International Convention on the Elimination of Racial Discrimination, adopted by the General Assembly in 1965 and entered into force in 1976, as well as the International Covenant on Civil and Political Rights of 1966, which sought to promote and protect human rights, including the rights of children, women, and persons with disabilities. With the ratification of the Universal Declaration of Human Rights by many countries, these rights acquired international legal status. (Mohamed Anas Jaafar and Ahmed Mohamed Refaat, *Human Rights*, 2014)

According to Article 56 of the Charter of the United Nations, all Members pledge themselves to cooperate with the United Nations in achieving the purposes set forth in Article 55, which includes, in paragraph (c), the promotion and protection of human rights and fundamental freedoms for all without distinction as to race, sex, language,

religion, or race, with equal respect for the rights of women and men. The Universal Declaration of Human Rights has universal legal value and reflects the global view on human rights, becoming part of customary international law.

Human rights are granted to humans simply because they are human. They do not discriminate between young and old, believer and unbeliever, man and woman. They are rights that belong to everyone without exception. Attractive principles that appear in public behavior but lack the actual power to defend the rights of the oppressed remain mere slogans that do not reflect a real reality, leaving many marginalized people behind. (Muhammad Ali, Introduction to the United Nations Mechanisms for the Promotion and Protection of Human Rights, 2019)

At the global level, the term human rights appears in the United Nations Charter seven times, making the protection of human rights a primary goal and fundamental principle of the organization. The United Nations has worked to provide the legal framework for the protection of human rights through legal instruments. The Universal Declaration of Human Rights, issued in 1948, was the first global legal document. Human rights did not acquire their legal character until after its promulgation. It was approved by the United Nations General Assembly in Paris in 1991 and ratified unanimously in 1992 by the United Nations Commission on Human Rights in accordance with Resolution 26/2111. It was then adopted by the United Nations General Assembly in Resolution 61/206 in 1993. The Declaration included guidelines for the establishment of an independent national human rights body or institution. However, Iraq has not taken these international guidelines into account. Human rights in this country have been neglected, and it has occupied a prominent position on the list of countries that violate human rights. (Muhammad Yusuf Alwan and Muhammad Khalil Al-Musa, International Human Rights Law - Sources and Means of Monitoring, 2019)

Despite the occupation of Iraq by the occupying forces, the United Nations, through its mission, has strengthened its efforts to assist. The Iraqi people and government, starting with the establishment of the government, the constitution, and the parliament, have also worked to strengthen their efforts by establishing the Ministry of Human Rights, which has played a significant role in disseminating a culture of human rights across all state institutions. The Ministry was established pursuant to Coalition Provisional Authority Order No. 60 of 2003, in response to the Security Council's request in paragraph 4 of Resolution 11483, which called on the Coalition Provisional Authority to act in accordance with the Charter of the United Nations and relevant international

laws to achieve the well-being of the Iraqi people through effective governance of the region.

The UN mission also actively supported the establishment of the High Commission for Human Rights and its offices in the governorates, in addition to monitoring the fate of missing persons, monitoring internal inspections within ministries, working to address human rights violations, and promoting the principles of fair trials. Respect for human rights is one of the most important inputs for achieving sustainable development, as effective development can only be achieved if the development approach is based on sound foundations and targets genuine development goals. This requires the active participation of society, which can only be enjoyed by ensuring its fundamental rights.

Thanks to the efforts of the UN mission, the Iraqi people were able to exercise their constitutional right to demonstrate, in accordance with the culture associated with human rights and fundamental freedoms. Therefore, the role of the Human Rights Committee in the Iraqi Parliament emerges as a strong voice defending rights and exposing corruption and violence against demonstrators and civil activists. Through its communication with international human rights organizations, it represents a true implementation of human rights in Iraq. (Mohammed Anas Jaafar and Ahmed Mohamed Refaat, Human Rights, 2014).

Regarding the successes of establishing the foundations for sustainable development in Egypt and Jordan, both Egypt and Jordan have made significant progress in achieving sustainable development by implementing strategies and policies that support economic growth, social justice, and environmental protection. These efforts have been reflected in various sectors, achieving tangible successes on the ground. Egypt adopted the "Sustainable Development Strategy - Egypt Vision 2030," which aims to achieve balanced economic development and improve the quality of life for citizens. Among the most notable successes achieved by the state in this area are:

- Expanding renewable energy projects, including the construction of the Benban Solar Energy Complex in Aswan, one of the largest solar energy projects in the world, providing thousands of jobs and contributing to reducing carbon emissions, and expanding wind energy projects in the Gulf of Suez.
- Developing infrastructure and transportation Implementing projects such as the high-speed electric train and monorail, which contribute to reducing pollution and carbon

emissions, and establishing a new road network that supports economic development and connects new cities to industrial zones.

- Achieving food security and agricultural sustainability, i.e. implementing major agricultural projects such as the 1.5 million feddan project to enhance agricultural production, achieve food security, and use modern irrigation techniques to conserve water resources. (Mohamed Anas Jaafar and Ahmed Mohamed Refaat, Human Rights, 2014)
- Focusing on the social dimension, launching programs such as "Decent Life," which aims to improve the standard of living in Egyptian villages and provide infrastructure, health, and education services to rural residents.

Regarding Jordan's successes in achieving sustainable development, Jordan launched "Jordan Vision 2025," which focuses on achieving sustainable economic development, enhancing the efficient use of natural resources, and achieving social justice.

Prominent successes in this regard include:

- **Transitioning to Renewable Energy**
Jordan has become a pioneer in the use of solar and wind energy, generating more than 20% of its electricity needs from renewable sources. Projects such as the Mafraq Solar Park are being implemented, contributing to reducing dependence on fossil fuels.
- **Effective Water Resource Management**
Launching the Aqaba desalination project and wastewater reuse projects for irrigation to address water scarcity challenges, and implementing plans to preserve the Disi Aquifer and regulate water consumption.
- **Promoting Economic Development and Investment**
Supporting entrepreneurship and small and medium-sized enterprises through financing programs and government initiatives to support youth, improve the business environment, and attract investment in sectors such as technology and clean energy.
- **Improving social and educational services.** (Mohammed Ali, Introduction to UN Mechanisms for the Promotion and Protection of Human Rights, 2019)
Implementing reforms in the education sector, such as expanding vocational and technical education to prepare youth for the labor market.

CONCLUSION

The evolution of international development law began after World War II, within the framework of codifying transnational principles and rules related to the cross-border dimensions of development. This process continued with the Bretton Woods Conference, which established the idea of a new economic order based on compensatory equality, as well as the issuance of the Declaration on the Right to Development and the Charter of Economic Rights and Duties of Governments. This was accompanied by a parallel organizational development, with the establishment of the United Nations Development Programme (UNDP), the United Nations Industrial Development Organization (UNIDO), and the United Nations Conference on Trade and Development (UNCTAD), which contributed to strengthening this trend.

Since the late 1970s, the concept of development has gradually evolved, with new areas of international development law emerging. Concepts shifted from a focus on economic development to sustainable development. This development linked this field to other areas of international law, such as human rights and environmental rights, helping to build a different paradigm in this field. The 1987 Brundtland Commission Report contributed to guiding development toward the concept of sustainable development, which combined economic, social, and environmental dimensions. In theory, sustainable development law could combine environmental principles, such as the precautionary principle and preventive measures; social principles, such as intergenerational justice; and economic principles, such as poverty reduction and increased economic well-being.

Despite the progress made in this field and the call to establish a sustainable development model within international development law, a study of some examples of this law indicates that sustainable development remains tentative and has not been fully realized for the following reasons:

First, the concept of sustainable development is mostly embodied in non-binding documents and inconsistent rights, which lack sufficient consistency and commitment. However, these documents could form the basis for establishing international sustainable development rights in the future. Second, gross national product (GNP) and other economic indicators remain the basis for assessing sustainability in development, indicating that the full transition from economic development to comprehensive sustainable development has not yet been achieved.

Third, the international community faces a challenge in finding a balance between the three dimensions of sustainable development due to economic priorities, which often results

in economic data being presented at the expense of the social and environmental dimensions. Despite these challenges, the international community needs to exert greater effort at the normative and regulatory levels to achieve truly sustainable development.

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