

Review

EVALUATION OF IRAN'S PERFORMANCE IN RELATION TO THE ENVIRONMENTAL PROBLEM OF THE URMIA LAKE FROM THE PERSPECTIVE OF INTERNATIONAL ENVIRONMENTAL LAW**Ahmad Javadi Chaharborj**Department of International Law, Islamic Azad University of Science and Research, West Azerbaijan
javadicharborj@gmail.com**ABSTRACT**

In the contemporary international law, due to technology progress and emergence of new technologies and environmental developing, especially by governments, protection of the environment as the common heritage of humanity is vital. Accordingly, in terms of the Biological Diversity and economic, social and cultural effects, wetlands are importance to the international community that the Lake Urmia is an outstanding example. To protect these ecosystems, International law in the context of general and special rules has set considerable provisions. As a major international wetland, Urmia Lake in the Ramsar Convention, the specific document governing the conservation of wetlands, has been recorded. Following the general rules in accordance with this Convention, States are required to reasonable use of wetlands and protecting them. But in recent years, the Urmia wetlands due to unreasonable exploitation such as diversion stream flow by the many dams built, the causeway and bridge built across Urmia Lake to the name of Shahid Kalantari was completed in November 2008. There is concern that is inhibits circulation within the lake and may exacerbate environmental issues caused by the low water levels and lack of modern agricultural extension, is nearly drying. So that the viability of this crisis may by threaten the right to a healthy environment leads to environmental catastrophe, and states Iran's international obligations. Therefore, it is vital for our country to do appropriate measures for the surviving of Urmia Lake By leveraging the environmental capabilities of International Law and civil rights, especially the fiftieth constitution with a focus on sustainable development.

KEYWORDS: Ecological balance, International Wetlands, Environmental international law, Rational use of wetlands, Urmia Lake.

INTRODUCTION

Because of high biological and animal diversity, having economic, social and even cultural value, wetlands are one of the most important ecosystems which are protected and conserved by international environmental law. Wetlands are areas covered with marsh, swamp, bog or natural or artificial ponds, whether permanent or temporary, where the salty, bitter and sweet water can be found as stagnant or flowing, including marine water that their depths not exceed six meters at the lowest point of low tide. This definition is a general definition of the concept of the wetland and its instances which is specified in paragraph 1 of Article 1 of the Protection of Wetlands Convention in 1971 (Ramsar Convention). Wetlands are very sensitive ecosystems that its ecological balance and the main factor of life are constituted by water (Farantouris, 2009, p 33). Hence any activity that disrupts the natural cycle of water in the wetlands can change the ecological status and finally will dry the wetlands (Sands, 2003, p544) and since more than one-third of the world's population live at the margins of wetlands, including rivers, ponds and coasts (Nazari Doost 2009, p. 1), any changes in the status of Wetlands will cause environmental problems for people. Not long ago we witnessed drying (Aral Lake), located on the border between Kyrgyzstan and Uzbekistan countries. Unfortunately, in recent years due to construction activities and non-compliance with the concept of sustainable development in these activities and mainly due to early yield economic interests, Urmia Lake as one of the major international wetland began to drying by the government.

In this article, we will try to evaluate the status of conservation of Wetlands in international law and with reviewing the general and specific rules governing the wetlands, we will explain Iran's obligations to protect the Urmia wetland and will review the performance of our country in this regard. Also by examining the environmental consequences of drying Urmia wetlands, referring to the causes of this problem, we'll try to review the issue in terms of human rights, especially the right to a healthy environment and evaluate the enforcement and international law guidelines on such events.

1. THE GENERAL AND SPECIFIC RULES OF ENVIRONMENTAL INTERNATIONAL LAW CONCERNING THE PROTECTION OF THE WETLANDS

In recent years, increasing pollution and environmental problems required the need to develop environmental regulations in the world to be more than ever; so many rules and global and regional conventions were developed for the environmental protection that until today more than 300 multilateral treaties, 900 bilateral treaties, and 100 documents adopted by international organizations has been approved. (Firuzi 2005, p. 27). It is true that environmental law is essentially a branch of civil law but in today's world due to population growth and industrial development and technology that has caused substantial pollution and environmental issues, has become a matter of transnational, cross-border and international. Thus, today the environment and its protection is relatively a new field for international regulation. The legal system of international environmental law is a combination of common law, treaties, organizations and transnational development of domestic environmental law (Mousavi, 2013, p. 23). International environmental law in various areas includes both general and specific rules, which also applies in the wetlands. Wetlands as one of the most important biological areas for humans and animals from one side are protected by general environmental international law and on the other hand, under the Ramsar Convention have its own legal system as well. In this article we try to examine both the current perspectives and try to evaluate the rules policy and conventions on human rights on the need to protect the environment.

1.1.1. General Sources Governing the International Law Of Lakes (Wetland)

Common sources of international environmental law is not only related to wetlands and in a general and comprehensive manner supports all environmental issues at the global level, in other words any issue that is some way related to the environment, general international environmental law has some rules about it. Among the important documents in this field it can be noted to the "1972 Manifesto of United Nations Conference on the Human Environment" that is known to the Declaration of Stockholm and also can be noted to the "1992 Declaration of United Nations on Environment and Development" that is known to the Declaration of Rio.

Holding such conferences was as a milestone in the development of international policy about the environment. In these conferences the importance of international environmental issues were institutionalized as an important part of international issues. And the principle that states are obliged to cooperate with global action in the context of the optimal management of global common resources and reducing the transboundary pollutions, was adopted. And also the concept of sustainable development and humanitarian issues, including economic development in compliance with environmental standards, was established at the Rio Conference. The third principle of Declaration of the United Nations Conference on the Environment (Stockholm) provides that: "Earth's natural resources, including air, water, soil, plants and flowers, especially specific examples of natural ecosystems should be protected with careful planning and proper management to the use of present and future generation". Also the principle of the Declaration of the United Nations Conference on Environment and Development (Rio) also focuses on the protection of all environmental issues. Particularly in development and economic activities, requires states to protect the environment. The fourth principle of the Declaration states: "In order to achieve a sustainable development, environmental protection must be an integral part of development and should not be considered separately examined." Some specialized international conventions relating to specific areas of the global environment, we can find some way related to the protection of lakes and wetlands; For example, it can be pointed out to the "Convention on the Conservation of Migratory Species of Wild 1979 (Bonn)" which its aim is the conservation and management of migratory species of wild that emigrate from national territory of the Member States to abroad. This can be quite related to the wetlands and protection of them, because many of these migratory species of wild are waterfowl so their main habitat is wetlands and particularly Uremia Lake. For example, many flamingos and pelicans' habitat and breeding center is located on the islands of Uremia Lake which by the disappearance of the lake, the life of these birds is threatened (environment organization, 2010, p. 19). It has been adopted many conventions in the world on the pollution prevention and environmental protection of the seas but there are differences between the concept of lakes and other wetlands with the concept of sea in international law, therefore, they cannot be seen applicable on the lakes. This is primarily because many of these conventions related for a region or a specific sea and such Convention of the Protection of the Marine Environment of the Caspian Sea Framework (Tehran, 2003) or Kuwait Regional Convention for combating oil pollution in the Persian Gulf [3] is so-called regional not global, Secondly, according to the subject these Convention are out of realm of wetlands because these Conventions further requires coastal states to protect the marine environment about the low contamination of oil ships or limitation of oil extraction and disposal of waste products and

1.1.2. International Institutions Related To the Environment and Conservation of Wetlands

In addition to general resources that are briefly mentioned, there are also international organizations which in general support all areas of the environment at the global level. United Nations Environment Programme (UNEP) and the Commission on Sustainable Development (CSD) are such organizations. The primary objective of (UNEP) is to coordinate the other activities of the United Nations agencies related to the environment and try to attract the attention of these institutions to environmental issues. [4] UNEP has played an important role in the growing global awareness from environmental issues, how to combat it and help gather public opinion on this topic. In the recent years, the institution has facilitated the international negotiation process about the protection from the regional seas and ozone layer and helped the countries to achieve the best abilities to manage the environment (Mousavi, 2013, p. 244). In February 2012, UNEP in a comprehensive report about the environmental problem has addressed Urmia Lake and has examined the importance of Urmia Lake, drying causes, possible consequences and ways of revival that in the next paragraphs we will discuss it. The main objective of UN Commission on Sustainable Development as one of the subsidiary organs of the United Nations Economic and Social Council (ECOSOC) is to control and monitor the progress made in the implementation of the Action Plan for the 21st Century and to regulate the objectives related to the environment and development in the overall UN system (Birnie and Boyle, 1996 p.658).

1.2. International Court Of Justice Votes (ICJ) On the Protection of the Environment and Wetlands

International Court of Justice as the most important international judicial organ of the United Nations has jurisdiction about all matters of international law that Member States may refer to it. Such environmental issues, paragraph 1 of Article 36 of the Statute of the Court has the same case.

Many lawsuits have already been addressed in the Court, which has been a subject related to the environment. But we want point out to the votes that the Court has established a procedure in the field of conservation and has tried to require the governments to protect the environment. Votes of the International Court of Justice in the context of international jurisprudence are an important source of general international law.

1.2.1. Gabcikovo-Nagymaros theorem

Hungary and Czechoslovakia in 1977 signed a treaty for the construction of dams on the Danube River, which its aims was to produce electricity, control floods, and the protection of ecosystems and the delta of the island. In the early 1980s, Hungary stopped the project claiming the environmental reasons and pollution of underground water reserves and damage to the unique wetlands in the region. The Court considers this issue that if there is a need to Hungary without incurring responsibility to give permission to stop?

Finally, the Court concludes that, there was not this state of necessity as general defence; the Court also accepted the fact that Hungary only in support of the environment has been forced to terminate the project. This theorem is significant because of the consequence that had for international environmental law. This issue is possible to be measured until the full implications of rules relating to environmental protection and human rights on the rivers and wetlands, and the other beneficiary countries cannot limit their collaboration to division resources of rivers. The Court in this vote emphasized that the Environmental Protection is essential (Weckel, 1998, p.654).

1.2.2. Corfu Channel Theorem [6]

In disputes between the UK and Albania on the English warships, when crossing the Channel, in the waters of Albanian English warships have been struck with the mine and have been damaged. Although the above case is wholly unrelated to the international environment but the principle of "everyone should have their own way to work that does not cause damage to other property" was affirmed. The Court adopted this principle from the "Roma Rights" that it as a "Principle of no Harm" is famous in the Islam. The Court also in this Vote stated that "every country is committed to not allow its territory to take inconsistent actions with the rights of other nations." This principle which is known as the principle of non-harmful use of the territory is frequently used in the international environmental law and it is predicted in the 1972 Stockholm Declaration.

1.2.3. Argentina Against Uruguay

The dispute by Uruguay on the licensing to a factory along the Caru River and concerns about the potential environmental risks posed by the factory caused that Argentina on 4 May 2006, broke out a dispute against Uruguay in the Court Justice. In this Vote, the Court has repeatedly evaluated the "environmental impact" and stressed the obligation to respect it. The Court with promotion of environmental assessment stated that: (performing such assessments is necessary when industrial activities may have negative impacts on the environment and in particular cross-border effects in the field of shared resources) (Stephens, 2009 p.5).

The Court emphasizes that affected persons by the project should also be informed of the results of the evaluation and ultimately it recognizes the environmental impact assessment as a process that has become an obligation in general

international law (Salmenkari, 2007 p.11). Aside from these three projects which are briefly examined, with environmental matters other cases have been dealt in the Court Justice that reviewing all of them is outside the scope of our discussion but we are just going to mention their titles:

Air herbicides documents (Ecuador against Colombia) - Territorial Jurisdiction of the International Commission of the River Oder (The differences between Poland and some other European countries) - the case relating to certain phosphate lands in Nauru (Republic of Nauru against Australia) and the Court advisory opinion on the legality of the threat or use of the nuclear weapons. It is worth mentioning that the Court advisory opinion relating to nuclear weapons (1995) according to Article 21 of the Stockholm Declaration and the second principle of the Rio Declaration emphasized that the common belief of the relevant countries is that they have a duty to ensure that activities under their jurisdiction or control do not cause to be scathed to the environment of other countries. Also in the case relating to territorial jurisdiction of the International Commission of the Oder River, a very important Principle - Community interest - was formalized in international law of environment.

1.3. Ramsar Convention the Only International Law Certain Source of Wetlands

The only source or Convention concerning International Law of Lakes and wetlands are Ramsar Convention. This Convention in the February 2, 1971 AD (13 Bahman, 1349) was signed in Ramsar, Iran and entered into force in December 21, 1975 AD. The Ramsar Convention that its official name is the "Wetlands Convention with International Importance especially as waterfowl habitat", is the only International Convention and the oldest Inter-governmental Agreement with emphasis on sustainable protection of the nature and the environment which was founded in Iran. On the occasion the Fourier's second (13 Bahman) is named the World Wetlands Day. Over the years, the Ramsar Convention has expanded its activities and attitudes that include all aspects of the conservation and rational and sustainable use of the wetlands and hence it is also known as Convention Conservation of Wetlands (Salimi Torkamani, 2011, p. 179). The Secretariat location of the Convention is "Gland, Switzerland" and the document holder reference is UNESCO. States Parties Meetings are held every three years and up to now 10 conferences of the state's members has been held. 160 countries are members in the Ramsar Convention and now 1896 sites with an area of 5/185 million hectares has also been demonstrated in the convention. In the meantime until 2913, Islamic Republic of Iran has also recorded a total of 24 wetlands as International Wetlands which their area is one million and thirty thousand acres.

Ramsar Convention consists of an introduction and 12 articles, that either now or in the future its main objective is the prevention of any aggression and oppression and degradation in wetlands and recognizing the fundamental ecological capacity of wetlands and considering the economic, scientific and cultural values of wetlands and the ability to regenerate and reconstruction of them. The main mission of the Ramsar Convention is conservation and rational use of the wetlands through the local, national, and international cooperation as a step in achieving sustainable development throughout the world (Salimi Torkamani, 2011, p. 180). Article 1 of the Ramsar Convention offers an overview definition about Wetlands that includes marsh, swamp, bog or natural or artificial ponds, whether permanent or temporary, where the salty, bitter and sweet water can be found as stagnant or flowing, including marine water that their depths not exceed six meters at the lowest point of low tide. Wetlands which are registered in the List of international importance Wetlands in Ramsar site have ecological, plant, animal and hydrological significance. Urmia Lake is one of the most important wetlands are registered in the Ramsar Convention. [8] Before reviewing the principles and rules of the Ramsar Convention and the Conservation of Wetlands of Urmia in context of the Convention, it is necessary to have a brief introduction of Lake Urmia, its position, importance and features.

1.3.1. Important and Characteristics of Lake Urmia

Urmia Lake with an area of approximately 35000 hectares located in northwestern of Iran is the largest lake inside Iran, west Asia's largest permanent pond and Iran's largest registered site in the Ramsar Convention. The lake is the saltiest lake in the world after the "Dead Sea" in Jordan. Urmia Lake is one of the largest natural habitats of "Artemia" in the world that is the only living creature in the lake and is considered a good food for migrating and native birds of the wetland (AbatzopouLos and others, 2006, p.443).

Urmia lake ecosystems can be divided into three groups including ponds, marshy areas around the lake and islands inside the lake. Urmia wetland contains 102 large and small islands that is a very safe and suitable environment for the birds' breeding. In the past, number of Artemia in per liter of water was about 3 to 5 thousand, and by drying up of Urmia Lake today we can say that there are no any Artemia in the lake and this wipe out the first food chain of birds in the wetlands and at general fauna of this wetland is in serious risk. So far, 27 species of mammals have been identified including the Iranian fallow deer, 41 species of reptiles, and 212 species of birds that 22 species of those are related to the native family of wetland (Environmental Protection Agency 1389, p. 20). [9]

Urmia Lake in 1970 by the Environmental Protection Agency was regarded as a national park. In 1966 the UNESCO selected 9 points for protection in the international Man and Biosphere Programme, one of which is Lake Urmia. The lake was also detected as one of the most important bird habitats by the Council for the Protection of Birds. Urmia wetlands is a very valuable and important ecosystems at the international and national level which at domain level modify the climate of the region and provides the rich, economic value, tourism, social and cultural biodiversity. [10] (Salimi Torkamani 1390, p. 185).

1.3 .2. Protection of Urmia Wetlands Based On the Ramsar Convention

1.3.2 .1. Reasonable Use of Wetlands

Commitment to the rational use of wetlands which is evident in Article 3 of the Ramsar Convention is considered the most important obligation of States Parties of the Convention on the Conservation of Wetlands which it is called the main axis and center of the Ramsar Convention, too. (Kruckek, 2003p400)

The definition about reasonable use of wetlands which was provided by the membered states in 1975 Canadian meeting is: "Sustainable use of wetlands for the benefit of humanity in a consistent manner with the preservation of ecosystem Ecological features." Given the above definition can be concluded that preventing wetland ecological changes, is a concept and main purpose for the protection of wetlands that this can be achieved by the balance of water in wetlands. Reasonable use of wetlands ensures a very important issue so that we can somewhere use and exploit from a wetland which do not damage the functioning of Ecological Wetland. (Kruckek, 2003p.416)

1 .3.2 .2 .To Perform Of Environmental Assessments, Prior To The Construction Of Development Projects

To achieve better and reasonable use of wetlands, we need specific mechanisms both at the international and local level which one of the most important mechanisms is environmental assessment, prior to the construction of development and economic projects. Although in the framework of the Ramsar Convention and its 12 districts there is not any subject by the name of environmental assessments, but achieving to the goal and reality of reasonable use from wetlands, we need to assess them. Therefore the Ramsar Convention, in its recommendations and resolutions, itself has tried to conduct environmental assessments in the design phase and implementing project. The environmental assessment indicates that whether the project is consistent with the reasonable use and maintaining the ecological character of wetlands or not. The purpose is to prevent the implementation of projects, although it economically ensures the immediate or short-term interests, may environmentally be disastrous (Taghizadeh Ansari, 1995, p. 289).

The results of the environmental assessment shall be limited to the following three ranges:

- The outcome of unstable or less than the minimum: Then the project can be done.
- The unstable consequences or minimum: Projects is applicable under certain conditions and supervision.
- Sustainable outcome or more than the minimum: the project should not be implemented under any circumstances [11] (Gondii Ling *et al.*, 2002, p. 275). As already mentioned in the definition of international environmental law, one of the pillars of the legal system of international environmental law is deployment of transnational domestic environmental law. Therefore, internal rules and regulations for the environmental protection in first stage are very important. With the development of these rules, we can even cover the vacuum available at the special rules of international environment; which one of the main goals of international environmental law is the same case. Iran as a country with a long history in legislation and as a vast country, with a varied climate and weather conditions and unique environment has many environmental rules and regulations that so far has approved more than 61 law relating to the environment, 100 Titles in bylaws and canon and 36 resolution of the Supreme Council of Environmental Protection [12] (the Environmental Protection Agency, 2003). Next, we are going to investigate a number of important environmental laws in Iran which are closely related to the topic of this paper.

1.4. To Protect Urmia Wetlands within the Domestic Environmental Regulation of Iran

1.4 .1. Fiftieth Principle of Constitution of the Islamic Republic Of Iran

The fifth principle of constitution of the Islamic Republic of Iran is one of the main principles and rules of environmental in Iran, which both as a principle of constitution and also in terms of subject matter is increasingly important. This principle provides: "In Islamic Republic of Iran, environmental protection is considered as a general duty which today's generation and the next generation should have a growing life. Therefore, if Economic and other activities continue with environmental pollution or irrecoverable degradation, it is prohibited."

The principle from one side is a very good prospect for the formulation and development of environmental rules in Iran, and on the other hand contains material which is also emphasized in international conventions. The fifth principle implicitly refers to the right to have a healthy environment for the growth of today's and next generation and on the other hand, it implicitly refers to the concept of sustainable development which, and does not damage the environment

and the future generations be benefited from it not suffered from its consequences. In the fifth principle, the environmental protection is known as a general duty not the government or a particular group's duty. This is a clear example of solidarity rights and the right to public participation especially local people in environmental decision making which it is addressed in Rio Declaration, Principles of 20, 21, 22, and paragraphs 2 and 7 of the Stockholm Conference. And, finally, the last paragraphs of the fifth principle states that economic activity which leads to destruction of the environment is prohibited. An obvious example of this can be found in Article 3 of the Ramsar Convention and in a commitment to reasonable use from wetlands and in conducting environmental assessments. Despite this dynamic and progressive principle in the constitution of the Islamic Republic of Iran, unfortunately, it appears that in the case of Urmia Lake and construction projects on the lake, this principle was completely ignored.

1.4 .2. Protection and Improvement Law of the Environment

Protection and improvement Act of the environment contains (enacted in 1974 AD. P) 21 Article and 9 remarks and is one of the most comprehensive environmental legislation of Iran that support all instances of the environment. The purpose of this Act is environmental improvement and prevention of any pollution and destructive action that cause disruption in environmental balance and proportion. According to the Article 6 of the Act, the prevention of pollution and environmental imbalance and Ecological balance of nature is one of the important tasks for the environmental Protection Agency, and then in terms of natural appearance emphasizes on the need to protect the environment and ways of beautifying it. However, the protection of the ecological balance of wetlands were not considered in the case of Urmia and construction activities in the wetlands caused ecological imbalance such as balance of water, animal and its apparent. In executive regulations of protection and improvement Act of the environment, issued 1975, it stressed on the need to environmental protection and the destruction and belligerency. Article 8 of the law stipulates that any action that alters the ecosystems of national parks is forbidden. Meanwhile the Urmia wetland has been registered as one of the most important national parks in the country since 1970.

1.4 .3 .The Environmental Laws of the Fourth Economic, Social and Cultural Development in Islamic Republic of Iran

The law, which was passed by Parliament in 2005, by doing economical activities, requires the government to comply with the regulations and environmental considerations. And provides that the biodiversity indicators at the end of the Fourth Development should be close to the international standards and the situation be appropriate; Article 67 of the Act is allocated to the Urmia Lake and states that ecosystem management in sensitive ecosystems, especially Urmia Lake should be prepared and be implemented. In environmental rules and regulations of the Third Development program, we see it emphasizes on the use of reasonable and proper management of natural resources. Article 104 of the Act states: "Exploitation of natural resources should be based on potential of the resource." Meanwhile, use of water resources in the catchment basin of Urmia was out of its potential power and caused drying of the lake.

In the following of the discussion, from the perspective of human rights, especially the right to have a healthy environment, we are going to examine the environmental protection and drying up of Urmia Lake. We will try to answer this important question that if drying up of Urmia Lake can deny the right to have a healthy environment to the people of the region? Apart from the issue of the right to have a healthy environment as a human right, if drying up of Lake Urmia can cause defects to other instances of human rights? Before addressing these issues, it is necessary we briefly point to the environmental crisis of Urmia Lake and the consequences that could cause in the future.

2. THE ENVIRONMENTAL CRISIS OF URMIA LAKE AND ITS CONCEQUENCES:

Diminishing process of Urmia Lake started several years ago due to excessive withdrawal of groundwater resources, by numerous wells in the area, creating numerous dams on rivers in the catchment area of the lake and other construction activities, such as building highways and Shahid Kalantari Causeway Bridge. Due to negligence and lack of management and necessary measures to prevent the water shrinking in the lake, today it has become a crisis. Right now, over 90% of Urmia lake bed has become the salt marsh. As drying of the lake increase, salts which contain very dangerous toxic and chemicals can even be passed a few hundred kilometers around by winds. (Rashid Nigi, Ali, *et al.*, 2011, p. 5)

Consequences of Lake Urmia can be examined in two parts generally: 1- drying up of Urmia Lake and its effects on the people health and 2- drying up of Urmia Lake and its impact on the animal, agricultural environment and climate of the region; We try briefly examine, both areas of study.

2.1. Drying Up Of Urmia Lake and Its Effects on the People Health

Drying up of Urmia Lake and its adverse effects on hygiene and health of the people of the region can be the most important ecological consequences of this disaster. The development of pest and weed control, and the widespread use

of chemical fertilizers in the catchment area of the lake has led to dispatch a variety of toxins, pesticides and fertilizers to the lake, this material has been deposited along with other sediments and by drying the lake it will be transferred to a radius of several hundred kilometers into residential areas and farmlands by wind and storm. (Rashid Nigi, Ali, *et al.*, 201, p. 6). According to the United Nations Environment Programme (UNEP), about 6 million people are living in towns around the Urmia Lake which would be directly threatened, and 76 million people who live within a radius of 500 km of the lake will felt the crisis. [13] (UNEP, 2012, p.1).

In the carried out investigations and tests of precipitated materials and salts of Urmia wetlands it was found that there are hazardous and heavy metals such as mercury and lead in this substances. This material can cause biological accumulation in the body and increases respiratory and cutaneous diseases and also can cause a proliferation of several cancer diseases in the human body. In a historical precedent, "lake Aral" on the border between Uzbekistan, Turkmenistan and Kazakhstan and in China "Lop Nur" Lake had equal conditions with Urmia Lake which by drying them; especially Lake Aral was caused environmental and health disasters. According to the United Nations Environment Programme (UNEP) drying of the Aral Lake is considered one of the greatest environmental disasters of the twentieth century (Koolae, E., 1994, p. 185). According to the World Health Organization, by drying up of the Aral Lake, the public health situation deteriorated rapidly, and child mortality rates in this region increased from around 25 death per thousand live births in 1950 to 70 - 100 death per thousand in 1996, and more than 60 thousand of the population of (Karakalpak) region in Uzbekistan has been reduced as a result of this incident. [15] (Maleki, Gasem. 1999, p. 56)

According to the World Health Organization experts, the main cause of many diseases in the area of the Aral was dusts containing pesticides, which causes the immune system diseases, cancer, anemia, and hepatitis in the region. Well as, the reason of more than half of all child mortality was acute respiratory disease. (Fanzili, zhangleide 1992, p1-9)

The UNESCO center in report related to the Aral Lake in 1999 stated: Diseases such as typhoid and hepatitis A and infectious disease have been severely out broken in the region, and malnutrition and anemia in these areas is on the rise. Liver and kidney disease is also more than usual. Apart from this, in blood and maternal milk are widely reported Pesticides of "oregano chlorine", "Dioxins are", "Lindane", "DDT", "Aldrin and ..." These toxins accumulated in the blood of pregnant women, particularly those oregano chlorine that caused by Russian pesticides used in cotton fields in the last decades and have been caused mental disabilities in children, as 1 child out of every 20 children had mental and physical disabilities. (Jensen *et al.*, 1997, p.187)

However, existence of "salt particles" in the air of towns of around the Urmia Lake has been approved by many experts. [17] United Nations Environment Programme in a report related to the environmental problems of Urmia Lake acknowledges: If reduction in the lake water be continued on, salinity increasing can disunite the food chain and cause damage to the habitat of animal and create salt storms, also, changes in livelihoods, agriculture and health of the local people and regional climate will also be threatened. (UNEP, 2012, p.6)

"Gary Lewis" UN Resident Coordinator in the Islamic Republic of Iran, in a report titled "The Death of Urmia Lake and its consequences for Iran" has discussed about the consequences of environmental problems and has predicted the solutions and appropriate measures. Gary Lewis at the top of his report states that: "The slow death of Urmia Lake is a warning indicator for the future."

2.2 Drying Up Of Urmia Lake and Its Impact on the Animal, Agricultural Environment and Climate Of The Region

As we mentioned before, Urmia wetland is one of the most welcoming places for migratory birds in the region that its unspoilt islands are a safe place for breeding of these birds. According to the comprehensive management program for Urmia Lake, existence of all these species which reptiles and mammals are a part of them in an area of the world is unique. Many of these animals are also considered as rare species of their race (Environmental Protection Agency, 2010, p. 20 and 21). By drying up of Urmia Lake and destruction of the (*Artemia urmiana*) and spraying of the food chain, the survival of these animals will be faced with the threat and virtually, Urmia wetland will become a dead wetland.

Moving the lake salts by winds and cyclones, all agricultural lands will be lost and massive saline will replace instead of these fertile lands (Nuri and Aghaei, 2012, p. 90) and we will be faced with a humanitarian disaster. Because agriculture in this region is the number one economic cycle and even in the production of sugar beet, West Azerbaijan is number one in the country. Apart from creating economical and livelihood problems for the people, according to many experts, drying up of the Lake will even have a negative adverse impact on the climate of the region and according to the opinion of many, it has had such effects. As the report of (UNEP) one of the important functions of

Urmia Lake is moderating the regional climate that the balance in recent years is partly disturbed so we saw very cold winters and very hot summers in the region.

3. LAKE URMIA ENVIRONMENTAL PROBLEM AND HUMAN RIGHT STANCE

3.1 The Right Of To Have A Healthy Environment and Other Related Issues

The right to have a healthy environment is one of the important issues of the third generation of human rights, namely correlation rights. It is as the most developed subject that as a correlation rights has been discussed (Amir Arjomand, 1995, p. 349). Definition of the environment in Article 14 of the Convention on the Rights of Third correlation is presented as follows: "Every man and all men as a group have the right to have a healthy and balanced environment in terms of environmental and conducive environment for the economic, social and legal development. Member States are committed to do not change the natural conditions of life into unfavorable condition that it damages human health and social welfare."

It seems what The Right on the Environment follows is: People are entitled to have a favorable environment to live in happiness, safe and have the minimum standards of healthy (Zarsky, 2002, p.1).

Right to have a healthy environment in international environmental documents have been emphasized, such as the Stockholm Declaration, the Rio Declaration, the Convention on the Rights of Third correlation and World Charter for Nature. The right to have a healthy environment apart from documents of international environmental in documents of binding international conventions on human rights has been emphasized as an important right. Article 11 of the Additional Protocol to the American Convention on Human Rights states: "Every person has the right to live in a healthy environment and use public and fundamental services. States Parties are committed to improve preservation, protection and improvement of the environment" (Amir Arjomand, 1995, p. 340). The African Charter on Human Rights, Article 24 states: "All peoples have the right to have a satisfactory, comprehensive and suitable environment for their own development." in 2001, right on the environment in the Charter of Fundamental Rights of the EU member countries of Europe as well as a real claimable right was recognized by the citizens; Today the right to have a healthy environment in the constitution of more than 60 countries have been supported as a matter of principle (Firuzi, 2005, p. 70). Right on the environment has components that comprise and consistent the right on the environment. These components include: Right of access to environmental information, the right to participate in environmental decision-making, right to environmental education and the right of access to the judicial authorities including penalties and compensation for environmental damage that the right to have a healthy environment in all these components must be considered.

Human rights in the age of globalization has led to a relationship between instances of three generations of human rights, in a manner that respect for each one will ensure another one (Zakerian, 2000, p. 134 and 133). As the Vienna Declaration and its Plan of Implementation in World Conference on Human Rights held in Vienna in 1993, in the fifth paragraph of Section one provides: "All kinds of human rights, are universal and indivisible and together have close and interaction dependence." As the Urmia Lake continue to drying up, and the adverse consequences which investigated it is obvious that the right to have a healthy environment will be deprived from the people of the region. But as we mentioned, because of indivisible ability of human rights cases and their close relationship with each other, infringement on the environment will also violate other instances of human rights including the right to life, right to health, the right to work and livelihood and good food. This is one of the most fundamental principles of human rights; it has been emphasized in the Universal Declaration of Human Rights and in the Covenants on civil and political rights and economic, social and cultural rights, too. Article 3 of the Universal Declaration of Human Rights and Article 6 of the Covenant on Civil and Political Rights refers to the right to life and the right to live free and in safe; Articles 7 and 12 of the Covenant on Economic, Social and Cultural Rights, referring to the right to physical and mental health, they also require states to provide the necessary measures to improve the health and require them to prevent the diseases and the children which are being born dead (Mehrpour, 1997, p. 371 to 368). Moreover, Articles 6 and 11 of the Covenant on Economic, social and cultural emphasize on work and livelihood and good food and it also requires States to take necessary actions and measures to improve the production, dissemination and reform its agricultural and agronomic system. [20] It is obvious that by drying up of Urmia Lake and not taking necessary measures to restore it, Human Rights in the instances that are noted can be violated. As in a recent report, by "Ahmed Shaheed" UN Special Rapporteur, about the human rights conditions in the Islamic Republic of Iran to drying up of Urmia Lake, has been pointed out as an example of human rights violations in our country. Because of the importance of environmental issues and cross-border aspect of it, the International law to protect the environment has mentioned that severe damages and wanton destruction of the environment is "international crime". Of course such a crime shall have been committed

during an armed conflict. Something that paragraph 4 of Article 8 of the Statute of the International Criminal Court (ICC) has also emphasized; (Zamani, 2002, pp. 28 and 29). Discussion related to crimes against humanity was raised apart from the International Criminal Court, in a project approved by a majority of the members of the International Law Commission in 1976. In accordance with Article 19 of the project "The commitment that is crucial to the international community to maintain its substantial resources, and has been violated by every state, is considered an international crime, so this will include environmental pollution, too (Amir Arjomand, 1995, p. 414).

In international law, whenever a breach of the obligation is undertaken, the issue of international responsibility is also raised. Therefore we try to evaluate the country's international responsibility related to the violation of its obligations under environmental, and study the performance of Iran among them.

4. THE INTERNATIONAL RESPONSIBILITY OF STATES FOR VIOLATIONS OF ENVIRONMENTAL OBLIGATIONS

In the past and classical international law the condition for the realization of international responsibility, was arrival loss or damage delivering but today, with the development of commitments «Erga omnes» [21] and humanized International Law, realization of the responsibility of states, aren't based on the wrongful act; Nowadays, in modern international law only the mismatch of a government behavior by its international obligations will lead to international responsibility, regardless of whether causing harm or not; in 2001 this issue was clearly introduced in International Law Commission draft about the international responsibility of States (ILC) which it provided the way for the concept of collective obligations and claims of the government to protect human rights (Wallace, Artga, 2013, p. 279).

Article 1 (ILC) on the international responsibility of the State require: "In terms of international perspective any act of government that would be illegal, its responsibility would be addressed to the government "(Abraham gull, 2013, p. 25); also in this case whether the legal relations arising from an international wrongful act have essentially a bilateral or multilateral nature, different views and opinions have been expressed. However, it is generally accepted that some wrongful acts led to the government responsibility against several state-offending or against the entire international community. The most important step in this direction was done by the International Court of Justice in the case of "Barcelona Traction". In this case, the Court stated:

"We should make discrimination between the obligations of a State towards the international community in general, and its commitment against any other government in the field of diplomatic protection, first commitments are related to all governments, so considering the importance of these rights, all states have a legal interest in supporting them. They are general obligations or (Erga omnes), respectively. "

However, whether environmental deterioration or non-prevention of its destruction in the form of omission [23] can be considered as a violation of a general obligation or Erga omnes? It seems that the answer is yes, because the environment knows no boundaries, air masses, ocean currents, rivers, migratory animals and so on, without artificial boundaries made by humans are in motion and displacement. For example, air pollution and climate change on Earth, could threaten the whole of humanity; according to the evaluation of environment experts, by continuing the warming process of the Earth due to greenhouse gas emissions, and due to melting of polar ice, by the end of this century, the little island and low height states such as Tuvalu, Kiribati, the Marshall Islands and the Maldives will be inundated and completely uninhabitable (Ranjbarian and Arghand Poor, 2012, p. 83). Therefore nowadays government sovereignty over territory and natural resources and their ecosystems are in the form of not absolute and exclusive. The new system of international law is plotted partial sovereignty in this regard for the countries and it respects this sovereignty just in the case that it doesn't threat or harm other countries (Firuzi, 2005, p. 89).

Apart from this discussion today in modern international law, due to the importance of the environment and its instances which have for the present and future generations, it is referred as the common heritage of mankind (Marty, 1999, p. 124). Because any damage, incorrect exploitation and environmental pollution can be a serious risk to the lives of present and future generations, therefore in 1982 Convention on the Law of the Sea and the resolutions of the United Nations about the weather, aerospace, respectively, the bed and under the seabed resources, the weather and space above the atmosphere, including the moon are referred as the common heritage of mankind. Exploitation (sustainable exploitation) of these resources and other environmental issues such as wetlands that have international significance for other countries must be for the benefit of humanity; first, however, it seems that Iran has international responsibility because of violating its commitment to the rational use of wetlands in the Ramsar Convention and the international jurisprudence and deviating from the general rules of international environmental law. And secondly, Iran has also responsibility for not preventing of the entrance of salt and other toxic substances of Urmia Lake into the air of other neighbor countries.

5. APPROACHES TO SOLVE THE ENVIRONMENTAL CRISIS OF URMIA WETLAND

Before presenting guidelines for the restoration of Urmia wetland, it is necessary to identify the main reasons of drying. According to experts, the main reasons for drying of the Urmia wetlands are: creating several dams on the river basin of the lake, construction of Shahid Kalantari Causeway Bridge and uncontrolled use of groundwater (Salimi Turkamani, 2010, p. 187 and 189). So far, more than five large dams in West Azarbaijan Province has been built over rivers feeding into Lake Urmia that do not allow the water needed enter to the lake in order to maintain Ecological balance and to survive the lake. This is while eleven other dams are now being built. [24] Shahid Kalantary Causeway Bridge, which only 20% of it has been constructed by the hardware; moreover it is the destructive concrete bases of environment, and 80% of it has been undertaken by the embankment in the middle of the lake, it is one of the main reason for drying of the Urmia lake; construction of the bridge has broken the natural connection between north and south part of the lake and has made serious changes in the lake hydrodynamic and its ecological characteristics and has increased the sedimentation and salt saturation (Bagherzade Karimi and Rohani Ravankuhi 2007, p. 31). Although, in opinions of some experts and officials one of the main reasons for the drying up of Urmia Lake is drought and rising global temperatures, the UNEP also admits in its report that at distances less than 200 km from Lake Urmia, Lake Van is located in Turkey with a similar condition to Lake Urmia which continues to exist.

In recent years, many approaches have been proposed for the restoration of Lake Urmia, but very few of them are practical solutions: 1. changes in cropping patterns in the area from products with high water use to the crops that use less water; 2. widespread awareness of local people about the functions, significance and consequences of Urmia wetlands drying; 3. promoting and developing modern agriculture such as drip irrigation and sprinkler irrigation in the region instead of traditional methods of flood irrigation; 4. Using the existing international potential including financial and intellectual support of environmental organizations such as the United Nations Environment Program, Wetlands International Monetary Fund, World Bank, etc.

Fortunately, in recent years with the emergence of a new government, good practices have been done in this field and are conducting now, too. The most important measures that the government has done in this field are: informing people about the consequences of the drying up of Urmia Lake, creating revival committee for Urmia Lake, trying to change cropping patterns in the region, consultation and close cooperation with environmental international institutions, discontinuing the dam construction in the area and recently allocating considerable budget by the Cabinet.

CONCLUSION

Lake Urmia as a wetland and with the international importance is supported by the principles and rules of general international law and is being ruled by specific environmental regulations. The general principles of environmental protection is confirmed this issue in the jurisprudence of various international conventions such as the principle of non-harmful use of environmental and the domestic territory of a country, principle of environmental assessment before carrying out development projects in the International Court of Justice votes and the principles of the Rio and the Stockholm Declaration. On the other hand, Principle of rational use of wetlands, and environmental assessments in the Ramsar Convention are considered as the most important obligation of States Parties; Unfortunately, Iran with construction of several dams on water feeder rivers of Urmia wetlands and constructing Shahid Kalantari causeway bridge and a highway without effective environmental assessment, has violated the general rules of environment and its specific obligations in the context of Ramsar Convention Including a commitment to rational use of wetlands and sustainable utilization of wetlands for the benefit of humanity. Thus, on the one hand, the country has international responsibility for the violation of its international obligations and on the other hand the international community such as Member States of the Ramsar Convention and the international environmental organizations also has responsibilities so they should try to revive the wetland by providing financial, technical and scientific assistance.

In the Iran, the most important organ that can prevent such crises is the Environmental Protection Agency, but legal and political structure of this organization is in such a way that in many fields it doesn't have sufficient power to deal with other government agencies such as the Department of Energy, Oil, Industry and Mining, Road and Urban Development and Agricultural Jihad, that their activities could hurt the environment. On the other hand the Environmental Protection Agency as a government institution is in a single collection and consistent with the departments, and virtually cannot act in conflict with his fellow; something that we saw in the construction of the Shaheed Kalantari causeway. Furthermore, the organization according to Article 7 of Improvement of the Environment Protection Act is lack of sufficient autonomy in its decisions, due to the differences of this organization with a particular ministry, the organization does not have the power to prevent the project or plan so the president must take the final decision and he does not seem to be the expert. So it seems that a healthy environment is very important for human life and the survival

of the present and tomorrow generation. Due to the increase of its threatening factors, if the Environmental Protection Agency acts out of government structure as a government institution with greater independence and power than the ministries and even the government, we will see more and more certain performance of the organization compared to now. Therefore, Iran should substantially revise its environmental laws and promote political and administrative power of the environmental protection organization and resolve the factors leading to irrational use of the wetlands in their legislation; Iran also needs to upgrade its systems of environmental assessment and Environmental Education such as public awareness about the consequences of the destruction of wetlands and the need to protect them, and in general have especial attention to the environmental protection in their educational policies.

FOOTNOTES:

1. Other sources of public international Environmental law and wetlands are the "World Charter for Nature» (WCN), passed in 1982 by the General Assembly of the United Nations, "Document World Conference on Sustainable Development", adopted in 2002 in Johannesburg or Climate Change Conference in 1997 "Convention for the Protection of the World Cultural and Natural Heritage" by UNESCO in 1972 and.... For more information, see the following resources: The Environmental Protection Agency, Collection of Environmental Laws and Regulations - The Second Volume of International Regulations, Tehran 2004.
2. Convention on the Conservation of migratory species (Bon 1979)
3. The desired conventions are intended only as examples and across the seas and the lakes shared between different countries of the world; there is also a special legal regime.
4. The United Nations agencies that have environmental authority are: United Nations Educational, Scientific and Cultural Organization (UNESCO) - World Health Organization - Food and Agriculture Organization (FAO), the International Labour Organization. For more information, see the following resources: Mousa Zadeh, Reza, international organizations, 2010, Tehran, Mizan publication.
5. This report is published as follows:
The drying of Iran`s lake Urmia and its Environmental consequences
For more information, see the following link: [http:// www.unep.org /geas/](http://www.unep.org/geas/)
6. To read more, see the official website of the International Court of Justice at the following address: <http://www.ICJ.org / Corfu case>
7. To see the sites listed in the Ramsar Convention you can see the official website at:
[http:// www.ramsar.org/cda/en/ramsar home/ main/ramsar/1-4000-](http://www.ramsar.org/cda/en/ramsar home/ main/ramsar/1-4000-)
8. Urmia Lake in Ramsar site is listed to the below number:
(Lake Urmia 75/06/23Azarbayjan-e Gharbi48' 3000 ha 37 30n 045 30E)
9. Among other valuable species in Lake Urmia, we can point to the pelicans that lay their eggs in "Douguzlar" islands, flamingos, Common shelduck birds, pink pileated, Ruddy Shelduck and Spoonbill.
10. According to a comprehensive management plan for Lake Urmia, this lake is important for the following reasons: Weather modification, reduction of sediment and the other pollutants, prevention of salty water intrusion, stabilization deposits of salt, tourism and nature, hot springs, mud therapy, education and research, cultural heritage, Artemia fishing, salt harvesting, medicinal plant source and the ...
11. Examples of application of the principle of reasonable use and not doing the project due to environmental impacts can be found in the "case of Bronaire" and creating a promenade " Lac » in the Lac wetland located in the Netherlands, that due to Environmental and implementation of the Ramsar Convention, Kingdom of the Netherlands prevented this project. For more information, see the following resource:
Verschuren Jonathan (2008) Ramsar soft Law isn't soft at all. discussion of the 2007 decision of the Netherland Crown on the LAC Ramsar site and the island bronaire.
12. For studying full text of these rules refer to: Environment Protection Agency, a series of Iran environment protection regulations, First volume of the internal regulations, 2004
13. By drying Urmia wetland, the fine powders arose from the lake bed make the around cities in direct danger, these cities in East Azarbaijan are: Shabestar, Tasuj, Malekan, Bonab, Maragheh, Gugan, Ilkhchi, Teymurlu, Azarshahr, Bndrshrfkhaneh and in West Azarbaijan are: Urmia, Salmas, Qushchi, Naqada, Mahabad, Miyandoab, Chahar Borj. The three countries, Turkey, Azerbaijan and Iraq are at risk of environmental problems, too.

14. Nasser Aq, founder of the Institute of Artemia and Aquatic of Urmia University has provided a detailed report on this issue that for more information you can refer to the official website of environment Protection Agency of West Azarbaijan: <http://www.doe.ir>
15. For more information you can refer to this link:
<http://www.fao.org/nr/water/aquastat/basins/aran-sea/index.stm>
16. For more information you can refer to this link:
UNESCO, (1999) water related (Aral Sea), <http://www.worldwater council.org/visin/Docu>
17. This report has been expressed by National Director of Conservation of Wetlands that for more information you can refer to this link: <http://www.yic.ir/fa/services/5>
18. For reading full text of this report you can refer to the website of environment Protection Agency of West Azarbaijan: <http://www.doe.ir> UN in recent years has been tried much to the restoration of Lake Urmia which includes informing people about the consequences of environmental problems, providing guidelines, holding various seminars and meetings and subsidies.
19. In view of the doctrine of international law, human rights can be divided into three generations: First generation: civil and political rights that its evidence are the Covenant on civil and political rights. Second generation: Economic, social and cultural rights that are Covenant of the same name and; Third Generation: Correlative rights that its instances are the right to have a healthy environment, the right to peace and development.
20. For further reading see Mehrpour, Hossein, (human rights in the international instruments and Islamic Republic of Iran's position) Etelaat publications, Tehran, 1997
21. Erga omnes commitments are fundamental laws of the international community that contains the public values of the international community and all countries in which are interested for example, the obligation to the prohibition of racism, slavery, genocide, etc. This commitment has two main characteristics: 1. Relating to human (conservation and protection of humanity and human interests) 2. Being globalization (the rules that are similar for all members of the international community and it guarantees the interests of the international community).
22. For further reading refer to:
Barcelona Traction, light and power company, limited, second – phase I.C.J reports 1970, p.3. at p32,para.33. and <http://www.ICJ.org>
23. In international law, wrongful behavior of governments is whether the act or omission. This means that even if the government is committed to the care of an act by its omissions, again it has international responsibility. Article 2 of Commission ILC in 2001 holds the same thing. For further reading refer to: Disputes about nuclear testing in Australia against French (1974) and New Zealand against France (1974), in the ICC and the 1985 Chernobyl accident more than 20 countries have registered an increase in radioactivity in the soil.
24. Mahabad Dam, Shahrchaie Dam, Makoo Dam -Shahid Kazemi Dam in Bukan and Nurozloo Dam of Miyandoab are in this list.

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