THE ROLE OF ADMINISTRATIVE LAW IN SAFEGUARDING THE ENVIRONMENT: A JORDANIAN PERSPECTIVE ADMINISTRATIVE LAW AND ENVIRONMENTAL PROTECTION IN JORDAN

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ABSTRACT

Objective: The primary objective of this study is to scrutinize the role of administrative law, particularly the administrative judiciary, in safeguarding the environment within the Jordanian legal framework. The study aims to elucidate the mechanisms through which the administrative judiciary exercises oversight over administrative and regulatory authorities and to delineate the legal foundations underpinning administrative liability for environmental damages.

Theoretical Framework: The theoretical underpinning of this study is anchored in the jurisprudential doctrines of administrative law and environmental governance. The study explores the intricate relationship between administrative jurisprudence and ecological stewardship, particularly in Jordan's unique environmental challenges and legal landscape. It posits that the administrative judiciary serves not merely as a procedural instrument but as a substantive agent of ecological governance.

Method: The methodology employed is a rigorous legal analysis, incorporating a review of Jordan's statutes, regulations, and judicial decisions relevant to environmental protection. The study also draws upon secondary sources, including scholarly articles and commentaries, to comprehensively understand the subject matter.

Result and Conclusion: The study reveals that the administrative judiciary in Jordan plays a pivotal role in environmental protection. It serves a dual function: as a guardian of environmental integrity and an oversight body for administrative regulatory authorities. The study also highlights the adoption of the doctrine of strict liability in the Jordanian legal system, emphasizing its significance in holding the administration accountable for environmental harm.

Research Implications: The findings of this study have far-reaching implications for the development of environmental policy and legal frameworks in Jordan. They underscore the need for a more integrated approach harmonizing administrative law principles with environmental governance objectives. This necessitates reevaluating and recalibrating existing legal mechanisms to ensure they align with sustainable development principles and ecological justice.

Originality/Value: The study offers a novel contribution to the existing body of literature on environmental law in Jordan by focusing on the often-overlooked role of the administrative
juliciary. It provides a nuanced understanding of the complexities involved in environmental governance and offers a theoretical framework that could serve as a foundation for future research in this domain.

**Keywords:** administrative law, environmental protection, jordanian legal system, ecological governance, administrative judiciary, environmental regulations.

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**O PAPEL DA LEI ADMINISTRATIVA NA PROTEÇÃO DO MEIO AMBIENTE: UMA PERSPECTIVA JORDANIANA**

**DIREITO ADMINISTRATIVO E PROTEÇÃO AMBIENTAL NA JORDÂNIA**

**RESUMO**

Objetivo: O principal objetivo deste estudo é examinar o papel do direito administrativo, particularmente do judiciário administrativo, na proteção do meio ambiente dentro do quadro legal jordaniano. O estudo tem por objetivo elucidar os mecanismos através dos quais o sistema judiciário administrativo exerce a supervisão sobre as autoridades administrativas e regulamentares e delinear os fundamentos jurídicos subjacentes à responsabilidade administrativa por danos ambientais.

Estrutura teórica: A base teórica deste estudo está ancorada nas doutrinas jurisprudenciais da lei administrativa e governança ambiental. O estudo explora a intrincada relação entre jurisprudência administrativa e gestão ecológica, particularmente nos desafios ambientais únicos da Jordânia e no panorama jurídico. Afirma que o sistema judiciário administrativo não serve apenas como instrumento processual, mas como agente substantivo da governação ecológica.

Método: A metodologia empregada é uma análise jurídica rigorosa, incorporando uma revisão dos estatutos, regulamentos e decisões judiciais da Jordânia relevantes para a proteção ambiental. O estudo também se baseia em fontes secundárias, incluindo artigos acadêmicos e comentários, para compreender de forma abrangente o assunto.

Resultado e Conclusão: O estudo revela que o poder judiciário administrativo na Jordânia desempenha um papel fundamental na proteção ambiental. Serve uma dupla função: como guardião da integridade ambiental e um órgão de supervisão das autoridades reguladoras administrativas. O estudo também destaca a adoção da doutrina da estrita responsabilidade no sistema legal jordaniano, enfatizando sua importância em responsabilizar a administração pelos danos ambientais.

Implicações da pesquisa: As conclusões deste estudo têm implicações de longo alcance para o desenvolvimento da política ambiental e dos quadros jurídicos na Jordânia. Salientam a necessidade de uma abordagem mais integrada que harmonize os princípios do direito administrativo com os objetivos de governação ambiental. Para tal, é necessário reavaliar e recalibrar os mecanismos jurídicos existentes, a fim de assegurar o seu alinhamento com os princípios do desenvolvimento sustentável e a justiça ecológica.

Originalidade/valor: O estudo oferece uma nova contribuição para o corpo existente de literatura sobre direito ambiental na Jordânia, concentrando-se no papel muitas vezes negligenciado do judiciário administrativo. Proporciona uma compreensão matizada das complexidades envolvidas na governança ambiental e oferece um quadro teórico que pode servir de base para futuras pesquisas neste domínio.
1 INTRODUCTION

To attain sustainable development, it is essential to consider the environment (Agustinus et al., 2023). The ecological system, a marvel of divine creation, represents an intricate web of relationships between living organisms and their environment. This system, characterized by exquisite beauty, harmony, and precision, is the bedrock of human existence. It provides the essential elements of life, including sustenance, hydration, and shelter. Preserving this system in its original state is not merely a matter of ecological concern; it is a moral and existential imperative ensuring humanity's continued existence without hardships or threats.

In the context of Jordan, the ecological system is marked by its diverse landscapes and unique ecosystems. The preservation of this ecological integrity is a matter of national importance, bearing direct implications on the nation's socio-economic fabric and its citizens' well-being.

The legal protection of the environment is a multifaceted responsibility encompassing rulers, subjects, individuals, and bodies. While criminal and civil laws have traditionally played a role in responding to violations against the environment, the evolution of administrative laws has added a new dimension to this legal landscape. The administration has become accountable for the environment's safety through its laws and regulations, attempting to prevent harm to the ecological system. The Jordanian legislator's role in setting laws and regulations governing environmental protection underscores the importance of legal mechanisms in preserving the integrity of the ecological system.

This study embarks on a comprehensive exploration of the administrative role in environmental protection within the Jordanian legal landscape. The objectives of this research are manifold:

1. Defining the Concept of Administrative Judiciary Protection of the Ecological System: Understanding the legal framework that governs how the administrative judiciary safeguards environmental interests.
2. **Clarifying the Role of the Administrative Judiciary in Supervising Administrative Regulatory Authorities**: Investigating the mechanisms through which the judiciary oversees administrative powers in environmental matters.

3. **Demonstrating Administrative Liability**: Analyzing the legal foundations determining the administration's responsibility for lapses or shortcomings in environmental protection.

4. **Articulating Administrative Responsibility for Environmental Damages**: Assessing the doctrine of strict liability as applied to administrative action.

The scope of this study is confined to the legal dimensions of environmental protection in Jordan, with a particular focus on administrative law and the judiciary's role.

### 2 THEORETICAL FRAMEWORK

The exigencies of modern environmental challenges necessitate a reevaluation of the traditional paradigms of administrative law. In the Jordanian context, this is particularly salient given the nation's unique ecological landscape and the increasing anthropogenic pressures on its environment. The theoretical fulcrum of this discourse rests on the premise that administrative jurisprudence is not merely a procedural apparatus but a substantive facet of ecological governance. This perspective mandates a paradigmatic shift from a purely regulatory approach to one rooted in sustainable development and ecological justice principles.

The administrative judiciary in Jordan operates under the aegis of a complex legal framework encompassing various statutes, regulations, and judicial precedents. Central to this is the administrative responsibility and liability doctrine, which serves as the jurisprudential cornerstone for adjudicating environmental disputes. This doctrine posits that the administrative apparatus is not just a facilitator but a custodian of the environment, vested with both the authority and the obligation to safeguard ecological integrity.

The administrative judiciary serves a dual function: It is a guardian of environmental integrity and an oversight body for administrative and regulatory authorities. This dual role is predicated on checks and balances, ensuring that administrative decisions align with environmental protection and sustainable development goals. The judiciary's role in this context is not merely reactive but
proactive, involving not just adjudication but also interpretation and, at times, the formulation of environmental norms.

The Jordanian legal system has increasingly adopted the doctrine of strict liability, particularly in environmental damages. This theoretical construct posits that the administration is liable for environmental harm, irrespective of the intent or negligence involved. This potent legal tool ensures administrative accountability and offers a robust mechanism for redressal and remediation.

International environmental norms and treaties also influence Jordan's administrative law framework. The theoretical framework must, therefore, consider the interplay between international obligations and local adaptations, particularly in the context of transboundary environmental issues and global ecological governance.

In summation, the theoretical framework for understanding the role of administrative law in environmental protection in Jordan should encapsulate these multifaceted dimensions. It should offer a nuanced understanding of the administrative judiciary's role, rooted in the principles of administrative jurisprudence, ecological governance, and international norms. This will provide a robust analytical structure and contribute to the evolving discourse on environmental law and policy in Jordan.

3 METHODOLOGY

The research paradigm adopted in the paper is doctrinal legal research, a descriptive and explanatory methodology. Doctrinal legal research primarily relies on secondary data, which includes primary, secondary, and tertiary legal materials. This paradigm is particularly apt for the paper's focus on scrutinizing the administrative judiciary's role in environmental protection within the Jordanian legal landscape.

The paper employs a multi-tiered approach to data collection, drawing from primary legal sources such as statutes, regulations, and judicial decisions. It also incorporates secondary sources like scholarly articles and commentaries. This aligns well with the doctrinal research paradigm, which emphasizes using comprehensive legal materials for a nuanced understanding of the subject matter.

Statutory Approach: The paper employs a statutory approach to offer a meticulous analysis of Jordan's legal frameworks governing environmental protection. This approach is instrumental in defining the concept of administrative judiciary
protection of the ecological system and elucidating the administrative judiciary's role in supervising administrative, regulatory authorities.

**Conceptual Approach:** The paper also adopts a conceptual approach to articulate the principles underlying administrative liability and responsibility for environmental damages. This approach aids in constructing well-founded arguments and interpretations, thereby contributing to the scholarly discourse on administrative law and environmental protection in Jordan.

**Comparative Approach:** Although the paper does not explicitly employ a comparative approach, it references international collaborations and standards, suggesting a broader, comparative context. A comparative approach would be beneficial for understanding how Jordan's administrative law measures up to international norms and practices, especially given that environmental issues often transcend national boundaries.

The paper confines its scope to the legal dimensions of environmental protection in Jordan, focusing on administrative law and the judiciary's role. While this narrow focus allows for an in-depth exploration of the subject matter, it also limits the study's applicability to broader contexts or different legal systems.

**4 RESULTS AND DISCUSSION**

**4.1 THE STANCE OF ADMINISTRATIVE JUDICIARY ON ENVIRONMENTAL DAMAGE IN JORDANIAN LEGISLATION**

The nexus between administrative law and environmental protection has emerged as a critical concern in contemporary legal discourse. This intersection is particularly pronounced in the Hashemite Kingdom of Jordan, reflecting the nation's evolving commitment to ecological stewardship and sustainable development. As a pivotal legal system arm, the administrative judiciary plays an indispensable role in shaping, enforcing, and interpreting the laws that govern environmental protection within the country; the decision-making procedures for environmental permits and inspections are ineffective. This inefficiency also extends to the management of damage repair and the legal accountability of the parties involved (Maia et al., 2020).

Historically, the concept of environmental protection was nascent in Jordanian legislation until the latter part of the 20th century. It was not until 1980 that the term "environment" was formally integrated into the legal and administrative framework,
marking a significant shift in the nation's approach to ecological governance (Hindiyeh & Oghlenian, 2023). This evolution culminated in the Ministry of Environment's establishment in 2003 and the subsequent enactment of Environmental Protection Law No.6 of 2017, a comprehensive legal instrument containing 31 articles dedicated to safeguarding the environment.

Simultaneously, Jordan has demonstrated a proactive stance in collaborating with international bodies and fostering domestic organizations such as the Royal Society for the Protection of Nature (RSPN) to enhance environmental awareness and conservation (Shbaita & Gücel, 2022). These initiatives underscore the multifaceted nature of environmental protection in Jordan, encompassing legal and regulatory measures and educational, societal, and international dimensions.

Within this complex landscape, the administrative judiciary in Jordan assumes a dual function. On the one hand, it serves as a guardian of the environment, ensuring that administrative decisions align with ecological integrity and sustainability principles. On the other hand, it acts as an overseer of administrative, regulatory authorities, monitoring and controlling their compliance with environmental regulations.

This section delves into the intricate relationship between the administrative judiciary and environmental protection in Jordanian legislation. It is organized into two main subcategories:

1. **Administrative Judiciary's Protection of the Environment**: An exploration of the legal framework, principles, and mechanisms through which the administrative judiciary exercises its protective role over the environment.

2. **Administrative Judiciary's Oversight over Administrative Regulatory Authorities**: A detailed examination of how the administrative judiciary supervises and controls administrative powers in adherence to environmental regulations.

Through a meticulous analysis of statutory provisions, case law, and administrative practices, this section aims to shed light on the dynamic interplay between law and ecology in Jordan, offering insights into the challenges and opportunities that lie ahead in the quest for a harmonious coexistence between human development and the natural world.
4.1.1 Administrative judiciary's protection of the environment

Protecting the environment and its ecological system is a paramount responsibility the public administration assumes in any given state, and Jordan is no exception. This role manifests through issuing regulatory and individual decisions that govern business activities, ensuring the ecological system remains unaffected (Al-Halou, 2002). However, the administrative judiciary's role becomes pivotal when the public administration fails, neglects its duty to preserve the environment, or violates the ecological system through its decisions or non-decisions (Darwish, 1999).

A significant example of this protective role is evident in a ruling by the Supreme Court of Justice, where the administration revoked a quarry license due to its pollution of the environment. The administrative court rejected the appeal and upheld the challenged decision (Supreme Court of Justice Ruling No. 11 of 1999). This ruling emphasizes the role and authority of the Public Institution for Environmental Protection in setting environmental standards in Jordan. It highlights the enforcement capabilities granted by the Environmental Protection Law and the accountability mechanisms embedded within it.

The ruling was a landmark decision that set a precedent for the administrative judiciary's approach to environmental protection. The case involved a quarry license holder who violated environmental regulations, leading to the revocation of the license by the administration. The license holder appealed the decision, arguing that the revocation was unjust. However, in its wisdom, the Supreme Court of Justice carefully examined the evidence and the applicable legal framework, including Environmental Protection Law No. 12 of 1995. The court found that the administration's decision was by the law and, in the execution thereof, explicitly referred to paragraph (w) of the said law. This provision entrusts the Public Institution for Environmental Protection, overseen by the Minister of Municipal and Rural Affairs, to establish the necessary environmental instructions, conditions, specifications, and related services.

The administrative judiciary in Jordan has made substantial progress in protecting decisions that shield the ecological system. Many judicial decisions have been issued rejecting claims targeting the environment and harming its order. The administrative judiciary has deemed the protection of the ecological system as safeguarding public order and public health, mandating the administration to adhere to the legal framework
regulating environmental protection, such as the Environmental Law and Public Health Law (Al-Baz, 1997).

Under its functions and responsibilities, the public administration engages in various activities using unconventional means to achieve public interest. However, not all public administration activities are subject to administrative judiciary oversight. Some jurisprudential opinions maintain that the bounds of judicial scrutiny over the administration's actions related to the environment are limited to its conduct or activities in managing public utilities, employing legal public means and privileges for that purpose (Hind, 2008).

The administrative judiciary's role is not confined solely to environmental protection. It works hand in hand with the ordinary judiciary in safeguarding the environment. Ordinary civil courts impose criminal and civil penalties and sanctions on those violating the environmental system. They also have jurisdiction over compensation claims, leaving outside the administrative judiciary's competence to examine compensation for damages to the environmental system or individuals harmed by this matter (Hilal, 2005; Al-Najjar, 1993).

In conclusion, the administrative judiciary plays a significant role in protecting the environmental system by intervening in the administrative decisions issued by the administration and attempting to balance them to prevent environmental harm. This oversight limits administrative decisions that cause several types of environmental pollution. What the administrative judiciary does in this regard is considered preservation for future generations and a commitment by the states to the remarkable international agreements and standards in this field (Al-Baz, 2006). The synthesis between a public utility and public authority standards as criteria for applying administrative law provisions in environmental disputes further underscores the complexity and importance of the administrative judiciary's role in environmental protection in Jordan. Supreme Court of Justice Ruling No. 11 of 1999 serves as a vital legal precedent in Jordanian administrative law, reinforcing the statutory obligations and the importance of coordination among different governmental entities in environmental protection. It stands as a testament to the administrative judiciary's robust role in safeguarding the environment, reflecting a broader commitment to sustainable development and responsible governance within the legal framework of Jordan.
Administrative Judiciary's Oversight over Administrative Regulatory Authorities

The administrative judiciary's oversight over administrative and regulatory authorities in Jordan is a complex and vital aspect of the legal framework, reflecting a multifaceted approach to governance and regulation. This oversight is not confined to the mere issuance or cancellation of administrative decisions; it encompasses a broader spectrum of responsibilities and considerations.

**Scope of Oversight:** The administrative judiciary's oversight extends to adopting flawed decisions made by the environmental administration due to abuse of authority, monitoring the appropriateness and proportionality of actions and decisions, and ensuring that the public administration exercises its regulations according to its competencies and powers (Ja'far, 2020; Al-Qali, 2021).

**Importance of Decision Goals:** An administrative decision's underlying goal is paramount. For example, if the public administration were to establish a toxic chemical factory in the city centre or grant a license for this to other individuals, those affected by these decisions have the right to challenge them. This right extends to seeking annulment and compensation for the damage caused by the decision. The administrative judiciary competently considers both aspects, reflecting a comprehensive approach to legal redress (Shahada, 1998).

**Legal Adaptation and Environmental Preservation:** The administrative judge must monitor the legal adaptation of facts, focusing on the administration's exercise of its authority in regulatory control and the means to preserve the general environmental system (Al-Tamawi, 1993; Macêdo et al., 2021). The Supreme Court has previously affirmed this, emphasizing that preserving the state's general environmental system is among the tasks entrusted to the administrative control authority.

**Monitoring Appropriateness and Proportionality:** The administrative judiciary's role extends to monitoring the appropriateness and proportionality of administrative control authorities' actions and decisions. It investigates the rationale behind the decision, the reasons for resorting to these decisions, and the alignment with legal standards and environmental protection goals (Khader, 2019).

**Jurisdiction and Legal Boundaries:** The administrative judiciary ensures that the public administration exercises its regulations according to its competencies and powers. Jurisdiction refers to the legal ability of the administration to carry out specific actions, and exceeding these bounds is considered unqualified to exercise administrative
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regulation. This aspect underscores the importance of legal boundaries and public order in administrative decisions (Khader, 2019).

**Exceptional Circumstances and Legal Adaptation:** The bounds of administrative regulation can change according to exceptional circumstances, such as pandemics, natural disasters, or other crises (Khamas, 1988). The Jordanian legislator enacts specific legislation in these circumstances, defining the administration's powers and lending administrative decisions the principle of legality. However, this may lead to debates over potential infringement on human rights, reflecting the delicate balance between emergency powers and civil liberties (Al-Jamal, 1999).

**Case Law and Precedents:** Related decisions, such as those issued by the Supreme Administrative Court, further illustrate the bounds of administrative regulation. An example is the contested decision No. (13/44) dated 21/8/2014, issued by the local committee in the Greater Ajloun Municipality. The decision was within the powers granted to the local committee by law, necessitating the rejection of the reasons for the appeal. Such cases provide practical insights into the application of legal principles and the administrative judiciary's approach to oversight.

In conclusion, the public administration in Jordan possesses administrative and regulatory powers to confront environmental challenges and preserve the environmental order in both ordinary and exceptional circumstances. All actions undertaken by the administration in administrative regulation are subject to administrative and judicial oversight in terms of the principle of legality. The administrative and regulatory powers are based on authorities granted to the administration through the law, even if the law is exceptional, such as the Jordanian Defense Law enacted to confront the Coronavirus pandemic.

This complex interplay between administrative decisions, regulatory oversight, legal jurisdiction, and exceptional circumstances is critical to the administrative judiciary's role in Jordan. It reflects a commitment to legal integrity, environmental protection, responsible governance, and balancing administrative authority and individual rights. The administrative judiciary's oversight is a robust mechanism to ensure that the administration's actions align with legal standards, societal needs, and environmental sustainability, contributing to the broader landscape of governance and the rule of law in Jordan.
4.2 ADMINISTRATIVE RESPONSIBILITY FOR ENVIRONMENTAL HARM IN JORDANIAN LEGISLATION

Having previously examined the judicial oversight of general administrative actions, which may give rise to liability for the administration's deeds in administrative control or through incorrect administrative decisions (Al-Hashmi, & Al-Nuaimi, 2023), the focus now shifts to the administration's responsibility for environmental harm within the Jordanian legal framework. This section is divided into two main subtopics to elucidate the general administrative responsibility for environmental damage, as follows:

1. **Liability of Public Administration for Environmental Damage Without Fault**

2. **Public Administration's Liability for Environmental Harm in the Presence of Fault**

These distinctions emphasize the multifaceted approach to environmental harm within Jordanian administrative law, underscoring the inherent complexities in ascertaining fault and the subsequent obligations that may ensue. It reflects a legal paradigm that seeks to balance the interests of the individual and the state, recognizing the broader societal imperative of environmental protection and the administrative role therein.

In the context of administrative responsibility, decisions must reconcile the rights of the state and society at large with the individual private rights of persons. General administrative responsibility is predicated upon fault, and it is not assumed that the Public Administration would deliberately cause harm to others, as that would constitute an abuse of its granted authority.

However, the administration may inadvertently err through the issuance of a wrong decision leading to harm to individuals. In such instances, the general administration is obliged to compensate for the damage inflicted on others due to a legal violation and the mistake made by the administration. Such a fault may arise due to a legally correct action, such as issuing a proper administrative decision that led to harm to individuals upon its execution. The same applies to Public Administration in the field of the environment, where, as the most substantial administrative authority in the state and the one that possesses the necessary means, it becomes liable for any environmental harm faced by individuals.
4.2.1 Liability of Public Administration for Environmental Damage Without Fault

The concept of liability for public administration without fault, particularly in environmental matters, is a multifaceted legal doctrine. This section will explore the various dimensions of this liability, its historical origins, theoretical foundations, and practical applications within the Jordanian legal system.

The liability of public administration for its actions without fault, especially in the realm of the environment, is regarded as exceptional responsibility. Its conceptualization pivots on creating a balance between the existence of public facilities and the services they render to citizens against the damage they inflict on citizens and the ecological system (Fumari, 1995; Abu al-Lail, 1998).

This theory, known as the "Theory of Risk," emerged with industrial evolution and progress in the latter periods of the twentieth century. It imposes responsibility on Public Administration for harm to individuals, even without fault, reflecting the increased burden on the administration due to scientific, technological, and industrial progression (Fumari, 1995).

The primary origin of this form of liability can be traced to the French judiciary and the Council of State, which applied the theory of risk to attempt a balance between gains and damages under various legal frameworks (Abu al-Lail, 1998).

In legal jurisprudence, liability without fault is realized through Public Administration undertaking a beneficial activity that may be harmful from another aspect or engaging in activities bearing collateral damage affecting nature or society equally (Al-Sayyid, 2006).

The theory of risks, or administrative liability for the environment without fault, is based on two main pillars: the damage affecting individuals or bodies and the causative relationship between the damage and the administration's act affecting the environmental system. Specific conditions must be met, such as substantial and unusual physical damage (Al-Munji, 2006).

The Jordanian judicial direction has limited the application of the risk theory, refraining from intervening in administrative decisions that could lead to harm unless the consequences are difficult to rectify. This stance is underscored by Article 6(a) of the Administrative Judiciary Law and confirmed by the Administrative Court (Supreme Administrative Court Decision No. 116 of 2016, dated 9/3/2016).
In the realm of administrative law, particularly in the context of environmental protection, the concept of responsibility without fault is a nuanced and multifaceted legal doctrine. This section elucidates the defining features of this type of responsibility as applied within the Jordanian legal system:

1. **Absence of Error**: A distinguishing feature of this responsibility is the absence of any fault or defect in the administrative decision. According to the risk theory, responsibility does not require the existence of an error by the administration. The competent authority issues the decision correctly, setting it apart from responsibility based on error. This concept emphasizes that the administration's correct action, even if it leads to harm, does not inherently constitute a fault (Shadi, 2010).

2. **Exceptional Nature**: This responsibility is exceptional, deviating from the general principle. It is applied only exceptionally or precautionarily, and its scope is confined to specific cases, particularly in environmental and administrative aspects. The administrative judiciary in Jordan exercises this responsibility within a narrow ambit. If the correct action of the Public Administration harms individuals without an error on its part, it is obligated to compensate the aggrieved for the resultant harm (Hamada, 2006).

3. **Objective Consideration**: Responsibility without fault is fundamentally an administrative responsibility grounded in objective considerations. When the administrative court examines this responsibility, its inquiry is confined to objective elements, explicitly focusing on the harm and its conditions. The examination is restricted to the activity conducted by Public Administrations, underscoring the objective nature of this responsibility (Helol, 1990).

4. **Part of the Public Order**: This responsibility is integral to the public order, meaning it can be invoked at any stage of the administrative action's phases. Public administration must compensate based on equality among individuals in public burdens. It is impermissible to disproportionately burden the administration with a group of individuals or a specific individual, as this would breach this principle (Amghazi, 2018).

In conclusion, the liability of the Public Administration for environmental damage without fault is a nuanced and multifaceted concept within Jordanian law. It reflects a legal paradigm that seeks to balance public and private interests, recognizing the broader
societal imperative of environmental protection and the administrative role therein. The doctrine, rooted in the theory of risk, underscores the administration's obligation to compensate for damage, even without fault, and has been shaped and limited by various legal and judicial interpretations.

4.2.2 Public Administration's Liability for Environmental Harm in the Presence of Fault

In administrative law, administrative liability, particularly in environmental regulations, has been a subject of extensive legal discourse. This liability is distinct from civil liability and possesses a flexible and progressive legal character, unlike civil justice, which is merely applicative (Hathoot, 2007). Administrative justice is constitutive, forging legal solutions that preserve the ongoing orderly function of public service.

Administrative liability is characterized by its indirect nature, resembling the responsibility of a subordinate for derivative acts. The administration, regarded as juristic, is liable for its employee's actions and resulting errors, such as licensing an environmentally harmful facility leading to poisoning cases (Aoubedi, n.d). This indirect responsibility ensures that the administration is accountable for others' acts.

The legal basis for Public Administration's responsibility for environmental faults has been debated among jurists. Some believe it is founded on proof of obligatory fault, a view that has faced criticism. This criticism arises from the potential exoneration of public administration from responsibility, even if legal actions or public projects harm individuals (Hashem, 1991). The difficulty in proving environmental harm and the imprudence of placing the burden of proof on individuals further compounds this criticism.

Responding to these criticisms, a jurisprudential opinion based on presumed fault has emerged, exempting the injured party from proving fault (Hafez, 1973). This approach facilitates holding the administration accountable for environmental damage and ensures compensation without the need to prove fault.

Furthermore, a trend among scholars of administrative law advocates for attributing administrative responsibility based on objective liability, focusing on consequential harm such as pollution or other damages (Saad, 1994). In this theory, responsibility does not depend on proven or presumed fault; establishing responsibility to prove harm is sufficient, even without the administration's fault.
The researchers believe the second view is preferable based on presumed fault. This view aligns with administrative responsibility without fault (risk theory), whereas the first theory may deprive individuals of their rights if they fail to prove the administration's fault. Administration represents all individuals in society, and imposing burdens more significant on a group of individuals than others is not permissible. This approach achieves justice, ensuring the legal basis for the public administration's responsibility for environmental damages is fair and equitable.

The responsibility of Public Administration in the environmental domain is multifaceted and extends to various forms of pollution. This responsibility is not confined solely to one aspect but encompasses various environmental errors, including air and auditory pollution.

In the context of air pollution, the acts of emitting foul odours or releasing toxic or black gases must be recognized as significant errors for which the administration is accountable. An illustrative case is air pollution through various means, reflecting the administration's broad responsibility (Abdul Wahab, 1994).

Furthermore, auditory pollution is another domain where the administration's responsibility is evident. A notable example is the case of C.E., November 5, 1980, Federation National des Transports Routiersm A.J.D.A.1981, p.211, not D. Broussole, where the establishment of an airport in a residential area led to significant annoyance due to loud engine noise. This disturbing noise is considered auditory pollution, and the administration is held accountable for such environmental errors.

Public Administration's responsibility also extends to water pollution. It can be held accountable for deeds leading to water pollution through waste disposal or contamination of seawater with sewage or drinking water. Various parties, such as consumers of polluted water, fishers affected by a decline in fish stocks, and farmers whose crops are spoiled due to irrigation with polluted water, have the right to sue the administration (Abu Al-Othm, 2003).

In the context of environmental law, the responsibility of the Public Administration for environmental errors assumes various manifestations. These errors can apply to environmental elements, such as water, air, and land, leading to the administration's liability. The following are the most prominent forms of error that can result in liability:
Firstly, The Failure of Public Administration to Take Preventive Measures to Protect the Environment: This error is characterized by the administration's passive stance, failing to fulfil its societal role in providing protection means. Such a failure to make necessary decisions to safeguard the ecological system may require intervention, such as shutting down a polluting establishment either permanently or temporarily (Zarouki, 2016). This negative stance exposes the administration to liability if it results in environmental harm (Al-Sanhouri, 1964).

Secondly, The Specialized Public Facility's Failure to Perform Its Duties: This manifestation involves the failure of specialized public facilities to protect or monitor the environment, leading to damage. Such neglect might occur through the failure to fulfil duties, as evidenced by a municipality ceasing to pump sewage water, causing pollution. The responsibility of Public Administration arises from the neglect of duties, such as when the municipality's cleanliness directorate fails to dispose of waste (Al-Shatanawi, 2008).

Thirdly, The Administration's Failure to Take Necessary Measures on Time: This form extends the responsibility of Public Administration beyond merely making decisions or performing duties. It includes situations where the administration fails to intervene promptly to protect the environment. Examples include a lack of immediate intervention during a flood, leading to the spread of diseases, or a delay in dealing with sewage water leakage, entitling compensation for damages (Kamel, 1997).

In conclusion, analyzing Public Administration's liability for environmental harm reveals a complex and multifaceted legal framework. The responsibility extends across various environmental elements, reflecting a broad spectrum of legal theories and practical applications. The ongoing debate among jurists and scholars underscores the dynamic nature of this legal concept, emphasizing the need for a balanced approach that aligns with justice and societal needs. The administration's role in safeguarding environmental integrity and the rights of individuals affected by environmental errors is paramount, and the legal mechanisms must be robust enough to ensure accountability and redress.

5 CONCLUSION

Protecting the environment and the order created by Almighty god is the duty of all. However, the administration, possessing the means and representing society as a
whole, bears greater responsibility than others. Public Administration's actions are subject to judicial oversight and evaluation by administrative courts. Should the public administration deviate from the proper path, administrative courts can annul its decisions or compel it to compensate for any damages inflicted on parties.

5.1 RESULTS OF THE STUDY

The researchers have arrived at several significant results through this study:

1. **Responsibility of Public Administration:** The responsibility for protecting and preserving the ecological system primarily falls upon public administration, as the ecological system affects society.

2. **Oversight by Administrative Judiciary:** Administrative judiciary exercises oversight over public administration's actions that may harm the environment, intervening through annulment and compensation claims.

3. **Prominent Role in Environmental Protection:** The administrative judiciary plays a prominent role in environmental protection through its practice of oversight as well as administrative control authorities, monitoring legality.

4. **Theories of Responsibility:** The responsibility of the administration for environmental damages is based on both the theory of risk and the theory of administrative error; the latter is predicated on the existence of an error on the part of the administration.

5.2 RECOMMENDATIONS

The researchers have also provided a set of recommendations to enhance the role of Public Administration in environmental protection:

1. **Enhancing Awareness:** The researchers advocate for holding conferences and increasing the awareness of public administration employees about the importance of protecting the ecological system and the crucial role of public administration in environmental protection.

2. **Focus on General Principles:** The researchers emphasize the need for various administrative bodies to apply general principles governing environmental administration rather than merely concentrating on one principle at the exclusion of others. They also stress the need to promote environmental studies and research in applied scientific and humanities fields.
3. **Mandatory Insurance System**: The researchers advocate for creating a unique system for mandatory insurance on public administration activities affecting the environment. This aims to protect administrative activities involving risks, safeguard the environment, and compensate those harmed in the event of environmental damage.

5.3 FINAL REMARKS

The role of Public Administration in environmental protection is paramount. The findings and recommendations of this study underscore the multifaceted nature of this responsibility and provide a roadmap for enhancing the effectiveness and accountability of administrative actions in the environmental domain.
REFERENCES


