

Abstract

Thesis Title : Civil Liability Enhancement and Conservation of National
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The problem concerning the environment has been the predominant conflict among developing countries and each developing country, including Thailand, has had to face serious side effects from its effort to modernize. The conflicts result in damage to human's health, property, as well as national resources and public property. Liability is placed on the owner of the source and cause of the pollution and the aggrieved party must claim restitution for damages through the Court. The administration of justice, are concerned. In the past, most aggrieved parties lost cases because they failed to prove to the Court that their damages were caused by the defendant's negligent and reckless actions. Because aggrieved parties are currently unwilling to bring actions against defendants in Court, environmental law in Thailand has been amended.

Prior to the issuance of the Civil Liability Enhancement and Conservation of National Environmental Quality Act, 1992, seeking redress in Court for environmental damage was accomplished through tort law and the provision of wrongful acts to property according to the Civil and Commercial Code. In such

proceedings, the claimant had the burden to prove that the damages caused by the owner of the pollution had originated because of the owner's willful and reckless conduct. Because it is different by its nature from other actions for damages, such conduct is difficult to prove. After the issuance of the Civil Liability Enhancement and Conservation of National Environmental Quality Act, 1992 the burden of proof shifted to the defendant as the law enforces a standard of strict liability. However, enforcement of this new promulgation according to civil liability still faces some obstacles such as the nature of the offense, claiming the action, and procedure in the cases, including an estimation of damages and compensation. This ineffective procedure causes an injustice to claimants with environmental cases and reveals that the goal to diminish the number of those responsible for environmental destruction will never be attained.

This study, therefore, contains some suggestions to resolve such problems by amending the law, as well as, adapting to Thai Law, some suitable laws from foreign countries believed to be effective which will promote the goal of reducing environmental pollution in our country.