

Abstract

It is obvious that the damage happening to the environment nowadays are partially causing by juristic persons. Even though there are punishments being inflicted upon the juristic person causing the damage, still, most juristic persons do not fear or care to stop causing such damage after being punished. Due to the fact that the penalty imposed on juristic person under the Thai Penal Code is limited by the enforceability which allows the punishments for juristic persons to be only a fine or assets confiscation. Such punishments are inadequate to make the juristic person stop committing such crimes to the environment. Instead, the juristic persons continue causing damage to the environment which is illegal and willing to pay the fine or having assets confiscation for such crimes more than changing their behavior or being fear of committing crimes. Therefore, the criminal penalties in Thailand imposed on juristic person committing crime against the environment are still insufficient which result in inefficient enforceability.

This thesis includes the studies on the criminal punishment measures and other measures which are not criminal punishment, both in Thailand and in other countries, in order to find a course of solution to solve the limitation of the criminal punishments for juristic person causing damage to the environment which is the criminal enforceability that allows the punishments for juristic person to be only fine or assets confiscation. As a result, such punishments have not been able to protect and prevent the committing of crime against the environment by juristic person.

In other countries, the fine imposed on juristic person could be set not more than 5 times higher than that of natural persons for the same crime. Setting a higher punishment for juristic person was based on the fact that juristic persons are more financially stable. In order for any punishments to serve its purpose, such punishments must have a negative result to the person committing the crimes. Therefore, punishments that effect juristic person financially could be the way to prevent or deter the juristic person from committing such crimes. For confiscation, the system of

value-based confiscation has been applied in order to prevent the problem of the avoidance of confiscation of assets received from crimes by selling, distributing or transferring such assets, or quickly use up such assets.

In addition, there are other measures, which is not a criminal punishments, that could be applied to juristic person causing damage to the environment such as, corporate probation which has a system that could make juristic persons change their crime doing conducts, for example, doing community services, projects which are beneficial to the community, projects for environment rehabilitation or making donations to the needed organizations or arrange for the corporate management restructure in order to adjust the policy and business concept of the juristic person, including prohibit the issuing of checks which is the criminal punishment applied in French Penal Code, such measure has a greatly impact on the business activities of juristic persons.

Based on the analysis of the criminal punishment measures and other measures which are not criminal punishment both in Thailand and in other countries, the guideline for criminal punishment measures for juristic person causing the damage to the environment may be concluded by proposing the amendment to made to the Penal Code in order to enforce upon the juristic person committing crimes in general and crimes under other many environmental laws. The proposed amendments include 1. Setting the fine for juristic person higher than for individual not more than 5 times for the same crime, 2. Adding to the punishments, the Court's discretion to change the imprisonment penalty for juristic person to corporate probation, 3. Prohibit the issuing of checks which the said measures are in accordance with purpose of and theory of crime punishment which is to protect and prevent the committing of crimes against the environment by juristic person more efficiently.