

ABSTRACT

At present time, environmental issues; not only water, noise, air pollution but also natural resource's destruction is continuously increasing harm. This impact causes a great deal of damage with decadence of environment, health of people who getting toxin from pollution, including exhausting the natural resources such as forest, mineral, wild animals which becomes extinct. Whereas Thai environmental laws cannot restrain or protect them from the action causing those damages as efficiently as it should be.

This dissertation has an objective to study the legal regulations to assist enhancing the protection of the environment and natural resources such as punitive damages which is a principal to determine the damages extensively used in common law countries. Especially in the United States of America where has regulations to clearly determine the punitive damages, however there are some arguments in some issues. It was found that the principal of punitive damages are useful or has many advantages, in particular, punishing offenders. It helps protecting the future damage and remedies the damages of society. It would be greatly beneficial to apply the punitive damages with Thai laws. Moreover, this is a study of principal of environmental law about the civil liability and the determination of indemnity for the damage occurring to private sector and natural resources. Such damage is deemed to be damage in relation to the nation. Furthermore, the study will analyze and seek for the proper scheme to determine the punitive damages efficiently applying with the Thai environmental cases.

From my study, it was found in the Thai environmental cases that the determination of punitive damages as referred in the Enhancement and Conservation of National Environmental Quality Act , B.E.2535 remain using the determination of actual damages following to the tort law of the Civil and Commercial Code. Nevertheless, the exceptional nature of environmental case is different from other general tort cases; it brings problems along with such as the plaintiff doesn't receive the damages for remedy

with fairness. Due to damage occurring to several people after the end of cases or dismissed from the court, the damages' determination in the case of natural resources' destruction becomes difficult. For these reasons, it needs many fields of academics to evaluate the damage. A person causing damage, the entrepreneur in good economic class, can compensate the damages without troubles or being afraid to do it again. That makes the offender easily flee from the trial. For this reason, not only people, environment and natural resources are not defended as it should be, but their rights are also risky to be offended and cause damage from time to time. Furthermore, the provision of the Civil and Commercial Code section 438 does not let the court to determine the punitive damages, since the statement "The Court shall determine the manner and the extent of the compensation according to the circumstances and the gravity of the wrongful act." is only for the court to make a decision with its own discretion to determine the damages in the case that the plaintiff cannot attest the amount of actual damages.

Nevertheless, if the punitive damages' principal applies with Thai environmental law, there should be apparent regulations. Since the punitive damages is the way that the court will use its discretion of determination in addition to the actual damages. This purpose of determination is to punish the defendant and to prohibit others to commit wrongful acts. This damages will be brought back to the public for remedy of damage. Therefore, it is necessary to be careful to determine the punitive damages whereas I present how to set up the regulations of punitive damages' regulations as follows: it should determine the punitive damages for only the person who acts negligent human force or Intentional/criminal human force and others specified in the law only. The evaluation of the punitive damages has to consider from factors such as violent behavior, defendant's benefit from committing wrongful act, duration of committing wrongful act to the environment. The amount of punitive damages should be

clearly determined in order to control the exceeding. The punitive damages that the person causing damage has to pay will be given to the injured person in one part and also to the country. Subsequently, the government will use for the better rehabilitating and preserving the environment and natural resources for afterward.