

Uraivan Prachumchit : Compensation Fund for Damages form Pollution.

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ISBN 974-332-076-8

This dissertation studies the feasibility for the organization of the Compensation Fund for Damage from Pollution with the principle of protecting and remedying the injured suffered from environmental pollution.

The study reveals that the injured parties' remedies and protection are through litigation. The funds as set up by various laws aim only at environmental management, for instance, the Environment Fund under the Enhancement and Conservation of National Environment Quality Act, B.E. 2535 (A.D. 1992) restricts the fund to activities supporting the operation of the control, treatment, and elimination of pollution. In addition, claim for damages as provided in Section 96 of the Environment Fund under the Enhancement and conservation of National Environment Quality Act, B.E. 2535 (A.D. 1992) requires clear evidence of relationship between the damage and the act causing it. Such proof requires specialized knowledge and in the past experts could not confirm that the damage suffered by the plaintiff was inflicted upon him by the defendant.

This study proposes the establishment of a fund to protect and remedy the people injured by pollution under Thai law by a new enactment which is considered a simple and the best way to do it. It is proposed that the fund have the following formation and structure: 1) The objective of the fund is to remedy the people injured by pollution: 2) Sources of fund shall be in the form of contribution from industrial works collected as pollution discharging fee: 3) The administration of the fund shall be overseen by the Office of Environmental Policy and Planning and by which a central committee and regional committees shall be set up to consider the rights of the injured: 4) Scope of compensation shall mean the compensation paid to the injured upon whose body the industrial pollution has inflicted damage: 5) Procedure for compensation: Formulation of 3 criteria for the compensation eligibility, i.e., area of designated pollution, designated type of disease, and duration of dwelling in the designated area. Four categories of compensation are proposed: medical expenses and other medically related expenses, compensation in case of inability, compensation for minors, and funeral expenses. In order to be entitled for compensation, the injured shall be required to submit a complaint to the committee. In the event the committee's decision found to be not satisfactory, the injured party is entitled to lodge his appeal to an appellate board.

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