



Improving the Environmental Law Enforcement Coordination: Case Study on Environmental Investigation

Salila Klanreaungseang* and Suteeraporn Saengchansri

Faculty of Law, Rangsit University, Pathum Thani, Thailand

*Corresponding author, E-mail: Salila.k@rsu.ac.th

Abstract

The research objectives aim to pave the way to improve the environmental investigation process and provide a guideline for establishing a fast, fair and uninterrupted environmental investigation mechanism. The organizations with responsibility of scientific data collection, police units in charge of environmental crimes, and public prosecutor agencies with specialized prosecutors in environment cases are the components of this mechanism, which will eventually strengthen not only the state's efficient investigation and prosecution but also its timely response to environmental crimes. This is to introduce the establishment of a central body to support environmental prosecutions, to promptly alleviate sufferings and to rehabilitate the degraded environment.

The analysis in this documentary research reveals the need to found a division or department of environmental police within the Royal Thai Police to be fully responsible for environmental cases without the division of area of responsibility. In addition, a bureau or section of public prosecutors with expertise in environment is also necessary for enhancing the coordination with relevant sectors at state and local levels. Both mechanisms thus require an agency that is responsible for providing accurate environmental information and collecting scientific data. It will serve as a center for gathering relevant facts and knowledge pertinent to the environment such as land management, water resource management, air pollution control and irrigation, etc. All these will contribute to a more efficient and uninterrupted investigation process in such regard.

This is to ensure the comprehensive protection of environmental resources, especially criminal prosecution against environmental offenders. Therefore, a central body should be founded for coordinating cases with an emphasis on its independence, transparency and accountability for more rapid and efficient coordination on environmental law enforcement.

Keywords: *Environmental Law, Environmental Crime, Environmental Investigation*

1. Introduction

In practice, to be able to respond to environmental crime, it is highly needed to focus on the justice process from the beginning. This means that more proactive role of environmental law enforcement organizations should be promoted to deter such crimes. Nevertheless, if the commission of an offense cannot be stopped, an organization with knowledgeable staffs in the environmental aspect is needed for arresting offenders. It is also important to ensure continuity of evidence-gathering process to properly punish them. Thus, the public prosecutor organization plays an important role in integrating the cooperation to stop or reduce the rate of environmental crime. The aforesaid multi-sector cooperation needs the collaboration among environmental organizations for incorporating all partners to ensure the timely environment protection. Apart from gathering the environmental knowledge, law enforcement organizations should also organize/carry out campaigns to discourage environment-degrading activities while the police organization is in charge of monitoring and suppression of offenses. In addition, the public prosecutor organization that has the duty to bring offenders to the court's trial may also give environmental consultations so it may require a division or public prosecutor with specific responsibilities in such regard. Therefore, to ensure the preventive measure of environment and to be prepared for future tendency of environmental crime, all sectors need to concretely integrate their understandings and works pertinent to the environmental investigation process.



2. Objectives

The research aims to examine what aspects of environmental investigation process should be improved with a focus on the participatory mechanism for protecting the environment in the community to introduce the establishment of a central body to support environmental prosecutions, to promptly alleviate sufferings and to rehabilitate the degraded environment in a concrete, fair, fast and uninterrupted manner.

3. Materials and Methods

This research focuses on environmental crime investigations in three countries (Australia, Spain and United States). These countries can be examples for improving structures, roles and responsibilities of relevant departments to develop a clearer environmental investigation process in Thailand.

This documentary research was conducted by means of study and collection of data from different sources e.g. textbooks, articles, journals, and electronic media.

4. Results and Discussion

The environmental protection thus is not a duty and responsibility of one given individual or group. Rather, it needs the integration of cooperation between public, business and people sectors, especially the awareness of shared responsibility of society or people in the community to help monitor environmental damages to enhance the implementation of preventive measures along with the corrective ones.

4.1 Summary of Environmental Investigation in Thailand

4.1.1 Environmental Law Enforcement Organizations

4.1.1.1) The Department of Environmental Quality Promotion (Ministry of Natural Resources and Environment)

The Department of Environmental Quality Promotion is in charge of gathering environmental knowledge e.g. water quality management and water pollution control law, nature conservation law, law on surveying and utilization of resources, environmental protection law and notice of pollution control area. However, most of its duties involve communication, increase of efficient access to the knowledge, raise of awareness as well as augmentation of people's capacity, creation of collaborative networks and promotion of participation of all sectors in environmental management. It also focuses on the study, collection and development of information, knowledge and innovation for environmental quality promotion (Department of Environmental Quality Promotion, 2020). This is regarded as the public relations role with no mandatory status and no environmental crime deterrent characteristics.

4.1.1.2) Pollution Control Department (Ministry of Natural Resources and Environment)

To suppress environmental law violators, the Regulation of the Office of the Prime Minister on the Collaboration on Environmental Law Enforcement B.E. 2550 (2007) establishes the Coordination Committee for Environmental Law Enforcement. The Environmental Law Enforcement Coordination Center, an agency affiliated to the Pollution Control Department, acts as the Committee's secretary. The Center thus plays an important role in coordinating cases to support investigation officers' duties and closely monitoring criminal proceedings results at the investigation level. For example, if it appears that the responsible investigation officers fail to take action in a timely manner, the Center will report to the Coordination Committee for Environmental Law Enforcement for further follow-ups. This involves many important environmental laws, namely, the Promotion and Conservation of National Environmental Quality Act B.E. 2535 (1992), Factory Act B.E. 2535 (1992), Public Health Act B.E. 2535 (1992), Hazardous Substance Act B.E. 2535 (1992), Industrial Estate Authority of Thailand Act B.E. 2522 (1979), and Land Allocation Act B.E. 2543 (2000).to enforce laws and protect the environment in a more concrete manner (Pollution Control Department, 2018).

4.1.2 Police Organization

Marine Police Division and Natural Resources and Environmental Crime Suppression Division (Central Investigation Bureau, Royal Thai Police) are the organizational structure of environmental police in Thailand. The area of responsibility is limited by law, for example, the Marine Police Division is in

[215]



charge of security protection and maintenance, search and rescue of victims, maritime counterterrorism, coastal guard, maritime security and special activities, maintenance of maritime national interests in the Chao Phraya River, the Mekong River, the Gulf of Thailand, and the Andaman Sea (Thai Marine Police Division, 2023).

Such scope should be based on the actual context and not be limited by area because most environmental crimes cover a wide area and are interconnected. The cooperation of public and private sectors in light of personnel should be strengthened in light of personnel and environmental knowledge, while officials designated to the position in environmental-related divisions should also possess knowledge of environmental science so that the evidences can be gathered according to the academic principle in a timely and accurate manner.

4.1.3 Public Prosecutor Organization

The Office of Economic and Resource Litigation under the Office of Attorney General is now responsible for offences affecting economy and natural resources as well as severely causing social impacts and national interests. (Office of the Attorney General, 2023)

4.2 Summary of Environmental Investigation of Other Countries

4.2.1 Australia

4.2.1.1) Environmental Law Enforcement Organizations

The Environmental Protection Authority (EPA) is a state environmental law enforcement agency responsible for environmental protection and works with government, business and community organizations in pursuance with the basic principle of violation of environmental protection laws. The investigation aims to provide an appropriate sanction to offenders and to prevent the reoccurrence. EPA will consider the prosecution of individuals or companies that have insufficient or no enforcement measures. The impacts on those involved: the defendant, the accused and the community are the important matter to be taken into account for further decision of prosecution. The consideration on whether an environmental offence is a crime or requires a stringent prosecution, EPA takes action and make decisions regarding litigation within situation and the legal framework of NSW's Protection of the Environment Operations Act 1997 (POEO) on the basis of the highest standards of integrity (NSW Parliamentary Counsel's Office, 2023).

4.2.1.2) Police Organization

Australian Federal Police (AFP) enforces Commonwealth criminal laws and protects national interest from crimes. Apart from being a law enforcement agency at the international level, AFP is the main source of advice for the Australian government in implementing policy and monitoring offenses committed against the environment. As the federal agent and part of investigation process, AFP works in collaboration with state-level forces and environmental agencies e.g. Australian Maritime Safety Authority (AMSA). For example, in case of oil spill from vessels in Australian waters, the investigation may identify the ship; take samples from its parts and investigate the alleged oil spill situation. Also, AFP is responsible for supervision in the effort to realize ecologically sustainable development (ESD) and greenhouse emission reduction. This needs the action plan to ensure the efficiency and the compliance with the public policy on environment (Australian Federal Police, 2016).

4.2.1.3) Public Prosecutor Organizations

The authority of the Commonwealth Director of Public Prosecutions (CDPP) covers environmental crimes at commonwealth level, which often involves a vast area, air transport, workplace safety and sanity, consumer safety as well as petroleum and natural gas such as the transportation of dangerous goods by civil aviation operators who violate the passenger safety and airspace regulations (Commonwealth Director of Public Prosecutions, 2020).

4.2.2 Spain

4.2.2.1) Environmental Law Enforcement Organizations

Spain's Ministry of Ecological Transition (Ministerio para la Transición Ecológica - MITECO) plays an important role in coordinating or assigning responsibilities to national police, Guardia Civil, local forestry officers, officials from MITECO's Sub - directorate General for Waste, and environmental agency



of the Office of Attorney General to achieve better coordination and efficiency. There are also other agencies, such as the Environmental Inspection Network (Red de Inspección Ambiental (REDIA)), that oversee environmental issues. This network integrates the responsible persons with expertise in many areas of public environmental inspection to support the environmental protection through the development and improvement of environmental monitoring which leads to the establishment of permanent mechanism. The scope of REDIA's operations is not only in the Spanish territory but also in the European Union - the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) (Dirección General de Medio Ambiente y Sostenibilidad, 2018).

4.2.2.2) Police Organization

In Spain, Nature Protection Service (Servicio de Protección de la Naturaleza (SEPRONA)) is a unit with the similar duty to the police. It has an ecological crime division with special police to deal with the environmental crimes involving civilians. Its mission thus is to protect soil, water, air, wildlife and rare plants (Ministerio para la Transición Ecológica y el Reto Demográfico, 2023).

4.2.2.3) Public Prosecutor Organizations

Regarding Spain's Environmental Prosecutors, the Environment Sections of the Office of the Prosecutor General is founded at the provincial and the highest levels. This unit is responsible for environmental litigation and serves as the environmental expert in solving scientific problems and in accurately enforcing environmental criminal law based on the matter of fact. (Ministerio de Justicia, 2009) It has a unit providing technical support and expertise in examining environmental problems, city planning and land management. Besides, the Environmental Prosecutor Section is vested with authority in the environmental case, while the specialized prosecutors work collaboratively with SEPRONA.

4.2.3 United States

4.2.3.1) Environmental Law Enforcement Organizations

The United States Environmental Protection Agency (US EPA) ensures that all states comply with minimum standards of the Federal Environmental Protection Act. Moreover, EPA's Criminal Investigation Division (CID) designates the statutory authority to the Federal Law Enforcement Office to conduct investigations, carry weapons, arrest federal criminals as well as execute and serve warrants.

The environmental law enforcement is a key to US EPA's strategic plan for human health and environment protection, which must conform to the policy and be proportional for the benefit of community and environment (United States Environmental Protection Agency, 2015).

4.2.3.2) Police Organization

In the United States, there are state-level police specifically responsible for the environment. For example, the Environmental Conservation Police Officers (ECOs) of New York City enforce New York's environmental regulations, investigate suspected violations and especially protect natural resources. Those eligible for this unit are provided with knowledge on geographic areas and internships in natural sites for a reasonable time. The important duty is to investigate complaints and prepare relevant documents when sufficient evidences of such case (both petty and severe one) are found with a focus on natural resource and environmental conservation. (Department of Environmental Conservation, 2023)

4.2.3.3) Public Prosecutor Organizations

California is an example of environmental enforcement mechanism and a model of environmental law enforcement, especially the Environmental Circuit Prosecutor Project (ECP), which serve as the center for designating the environmental prosecutor to the area where skillful officials to investigate environmental crimes are lacked (California Environmental Protection Agency, 2023). Its environmental investigation role is supported by the California Environmental Protection Agency (CalEPA) and the California District Attorneys Association (CDA) (California Legislative Information, 2021)

4.3. Comparative Analysis of Environmental Investigation between Thailand and Other Countries

4.3.1 Environmental Law Enforcement Organizations

When compared to foreign countries, there is an environmental protection agency with a specific duty for litigation, and preparation for prosecution is conducted through the systematic collection of data.

[217]



For example, in Australia, the Environmental Protection Authority (EPA) is the state-level environmental law enforcement agency responsible for environmental protection, working in collaboration with business enterprises, public sector, and community organizations according to the basic principle of environmental protection.

However, Thai agencies responsible for preventing and solving pollution are unable to play a protective role and work in a passive manner such as solving problems or dealing with complaints. An environmental law enforcement agency thus should be founded to promote overall investigation capability and law enforcement.

To encourage all sectors to monitor environmental damages, it is highly important to enhance more proactive role of environmental law enforcement agencies in executing the case when an environmental damage is found. Environmental law enforcement agencies should be responsible for collecting relevant scientific evidence or data necessary for further proceedings in pursuance with judicial process.

4.3.2 Police Organization

Despite the existence of police for forestry and resource matters in Thailand, limitations of its role, power and duty under the law and of academic support system were found. The collaboration with people sectors thus is needed to proactively promote the prevention and resolution of environmental problems. In addition, a great deal of understanding is a key to deal with the environmental crime because this kind of crime often covers a vast or many areas. As the police officers have separate areas of responsibility, so the integration of works in multiple areas is central to address the environmental problems.

Many countries have police officers with specific duty of environmental protection, such as New York State Environmental Conservation Police Officers (ECOs), which is responsible for environmental law enforcement as well as investigation and interrogation of suspected violations to the environment.

In fact, most environmental crimes cover many areas; therefore, the cooperation or work together across areas of responsibility is necessary. The proactive development towards founding of police division with expertise in environmental crime investigation is an urgent matter because environmental problems are now closer to daily life.

4.3.3 Public Prosecutor Organization

The Department of Economic Crime Litigation under the Office of Attorney General has no specific section or division of responsibility of the environmental prosecutor. As a result, the responsible persons for environmental crimes may not possess technical expertise and particular knowledge of environmental laws.

In some countries, for example, Spain's Environment Unit of the Office of the Prosecutor General is a section dedicated for environmental cases. It is technically supported by scientists or environmental engineers to examine technical evidences that require specialized knowledge.

In addition to the principal role in judicial process, the public prosecutor organization may play a role in publicly disseminating environmental law knowledge and in integrating environmental investigations with other agencies. This will result in concrete and efficient prosecution of important environmental cases.

5. Conclusion

In order to take appropriate environmental resource protection actions, especially criminal prosecutions against environmental offenders, it may be suitable to establish a "central body for coordinating environmental cases" to support environmental law enforcement coordination for prosecutions at levels of investigation officer and of prosecutor.

This central body should be independent with the focus on its transparency and accountability as well as have a committee consisting of public sector and civil society that specializes in environmental management. The recruitment of the said civil society should also welcome public engagement. There should be a department (being separated from the Pollution Control Department) that serves as a secretary with independent data, personnel and budget management. Such central body should also play a role in promoting environmental protection, establishing an accessible mechanism to collect public complaints,



and to publicize or organize campaigns promoting public participation and awareness of collective surveillance of environmental offences. In this regard, the information systems or digital technologies (such as online complaint submission or environmental threat monitoring hotline) may be introduced so that the environmental law enforcement becomes more effective towards the tangible environmental protection.

6. Acknowledgements

I wish to convey my appreciation to Dr. Suntariya Muanpawong for his valuable advices as well as Mr. Piya Homchaikaew for his assistance related to translations.

7. References

- Australian Federal Police. (2016). Australian Federal Police Facility Security Enhancement Project. Retrieved February 20, 2023, from <https://www.aph.gov.au/DocumentStore.ashx?id=aa51e14e-9073-4ba3-bbf2-cf107ccac4ea&subId=414863>
- California Environmental Protection Agency. (2023). Environmental Circuit Prosecutor Project. Retrieved January 28, 2023, from <https://calepa.ca.gov/enforcement/environmental-circuit-prosecutors-project/>
- California Legislative Information. (2021). Penal Code section 14300. Retrieved January 25, 2023, from https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14300.&lawCode=PEN
- Commonwealth Director of Public Prosecutions. (2023). Environmental. Retrieved February 20, 2023, from <https://www.cdpp.gov.au/crimes-we-prosecute/environment>
- Department of Environmental Conservation. (2023). Environmental Conservation Police Officers. Retrieved January 24, 2023, from <https://www.dec.ny.gov/regulations/2437.html>
- Department of Environmental Quality Promotion. (2020). Mission and Policy. Retrieved January 26, 2023, from https://www.deqp.go.th/?page_id=2793
- Dirección General de Medio Ambiente y Sostenibilidad. (2018). Programa de Inspecciones Ambientales. Retrieved August 8, 2022, from https://www.comunidad.madrid/transparencia/sites/default/files/plan/document/programa_de_inspeccion_ambiental_2018.pdf
- Ministerio de Justicia. (2009). The Prosecution Service. Organic Statute. Retrieved January 28, 2023, from https://www.fiscal.es/documents/20142/100991/Organic+Statute+of+the+Prosecution+Service+Act+24_2007.pdf/50b309f6-ea3d-74a7-1331-da8cfa0faf6f?version=1.1&t=1531209593286.
- Ministerio para la Transición Ecológica y el Reto Demográfico. (2023). Servicio de Protección de la Naturaleza (SEPRONA). Retrieved January 29, 2023, from <https://www.miteco.gob.es/es/actuaciones-seprona/el-seprona/>
- NSW Parliamentary Counsel's Office. (2021). Protection of the Environment Operations Act 1997 No 156. Retrieved February 24, 2023, from <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1997-156>
- Office of The Attorney General. (2023). Department of Economic Crime Litigation. Retrieved February 10, 2023, from <https://www3.ago.go.th/center/eco/>
- Pollution Control Department. (2020). The Regulation of the Office of the Prime Minister on the Collaboration on Environmental Law Enforcement B.E. 2007. Retrieved August 17, 2022, from <https://www.pcd.go.th/publication/5397>
- Thai Marine Police Division. (2023). Organization structure. Retrieved February 10, 2023, from <https://marine.police.go.th/Body%20Web/Organization.html>
- United States Environmental Protection Agency. (2015). United States Environmental Protection Agency Supplemental Environmental Projects (SEP) Policy 2015 Update. Retrieved August 17, 2022, from <https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf>