

# Analysis on the Application of Environmental Crime Criminal Law—— Cites the Crime of Environmental Pollution

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**Abstract:** *At present, the scope of environmental legal benefits established by China's criminal law is relatively narrow, which not only blurs the legal benefits of environmental pollution crimes, but also constitutes an obstacle to refining the types of environmental crimes in China. Therefore, the key to the application of the criminal law for the environmental pollution crime is to moderately increase the specific types of legal benefits of the environmental pollution crime. However, the specific composition of the crimes in the special chapter of environmental crime stipulated in China's criminal law is not clear, which has a very limited role in regulating environmental crimes. The crime of environmental pollution is one of the important crimes of environmental crime in the criminal law. It should be necessary to determine the types of legal interests and clarify the attributes of its legal interests, so as to solve the dilemma of environmental crime in the application of the criminal law.*

**Keywords:** *Environmental Crime; Environmental Pollution Crime; Legal Benefit; the Application of Law*

## 1. Introduction

This paper explores the purpose of this topic; on the one hand, it is to conceptually understand the difference and connection between environmental crime and environmental pollution crime. On the other hand, it is designed to explore how environmental pollution can be punished and prevented. In addition, the number of environmental crime cases in recent years is also increasing, according to July 2013 to October 2016, the national court new environmental pollution, illegal disposal of imported solid waste, environmental supervision dereliction of duty 4636 criminal cases, environmental pollution criminal case growth is very obvious, so discuss the development of modern society is of certain practical significance.

The concept of environmental crime has always been controversial without clear terms. In this paper, the concept of environmental crime will be extracted combined with the views of relevant scholars and the actual situation of China. Since the criminal law amendment (8), the crime of environmental pollution cases is more and more, one of the reasons is the criminal law amendment (8) cancelled the original in article 338 criminal law of major environmental pollution accident has become the crime of environmental pollution, the crime does not need to constitute major as before, as long as the implementation of environmental pollution constitutes the crime. This paper explores the application of environmental crime in the criminal law. In the process of inquiry, the concept of environmental crime and environmental pollution crime is involved, and the elements that constitute this crime. The concept of environmental pollution and the crime of placing danger is similar, and how to distinguish the small difference between the two is also an important knowledge point involved in this article. This knowledge point is also the key is the difficulty. As the society is constantly developing, the means of environmental pollution behavior will also follow the development of the society, so this article meets the standard of crime, how to determine the specific circumstances and what problems will be discussed in the application of the criminal law, and the measures to put forward relevant suggestions will be improved.

The significance and purpose of the topic is to make environmental pollution in the later case trial can achieve unified sentencing standards, play the role of criminal law, let the criminal person bear legal, reasonable and due punishment sanctions, to prevent environmental pollution of illegal and criminal behavior, and the purpose of protecting our existing green mountains.

## **2. The Concept of Environmental Crime and Environmental Pollution Crime**

### ***2.1. The Meaning of Environmental Crime***

Domestic scholars analyze and understand the concept from a broad and narrow perspective, and define it from the common characteristics of environmental crime.<sup>[1]</sup> In a broad sense, environmental crime refers to the perpetrator of environmental protection laws, pollute or damage the environment, environmental crime refers to the natural person or unit violating the environmental protection law, pollute or destroy the environment, cause or sufficient to cause significant damage to environmental resources, other life and health and public and private property.

### ***2.2. Definition of Environmental Pollution Crime***

The crime of environmental pollution refers to the behavior that humans violate the environmental laws in production and life, discharge substances and energy into the environment, leading to the decline of environmental quality, and the ecological balance of breaking the ring and endangering the normal human survival and development conditions.

## **3. The Connection between the Crime of Environmental Pollution and the Environmental Crime**

The crime of environmental pollution is one of many environmental crimes. The perpetrator generally commits an environmental crime and may involve a crime of environmental pollution. The provisions of the Criminal Law Amendment (VIII) can apply when both environmental crimes and environmental pollution crimes meet the admission standards.<sup>[2]</sup> Because both belong to the object of its infringement is the subject of class crime within the scope of the national management system of environmental resources protection, which is the relationship between class crime and specific crime. The common aspect extracted from the concept is that both are illegal environmental protection laws and regulations, and the acts that infringe on or pollute the environment cause damage to human life, health and property interests.

## **4. The Application Current Situation and Dilemma of Environmental Pollution Crime and Environmental Crime in the Criminal Law**

### ***4.1. Standards for committing environmental crimes and environmental pollution***

Usually, the environmental crime standard meets the criteria of pollution ring crime, as the environmental pollution crime mentioned above is one of the many counts of environmental crime.<sup>[3]</sup> The heavy metal pollution discharged exceeds more than three times that stipulated by laws and regulations, and the illegal disposal, dumping and disposal of three tons of dangerous substances is the quantitative standard for the crime of environmental pollution.

Environmental pollution crime is behavior, but it does not mean that any discharge, dumping, disposal of pollutants constitute a crime, only in a specific place, more than a specific number of emissions, dumping, disposal, to constitute a crime, the result of the judicial interpretation is in fact through the behavior of personal, property to reflect the specific degree of environmental pollution behavior.<sup>[4]</sup> The contrary view is that the crime of environmental pollution is a typical outcome crime, but the judicial interpretation of environmental crime turns the crime from a result offender to an offender and a outcome offender<sup>[5]</sup>.The legal benefit of the crime of illegal logging is illegal logging, the criterion for the crime; the perpetrator of illegal forest law, and the illegal transportation and trafficking is a crime.

### ***4.2. Applicable Dilemma***

#### ***4.2.1. In the Criminal Law, the Scope of Environmental Crimes Is Narrow***

Take the crime of "environmental pollution" as an example, which is a specific crime, but it is a "bottom crime", because in reality, whether it is land pollution, air pollution or water pollution. To know different environmental elements have different characteristics, the fixation of land, water mobility, the diffusion of gas and criminal behavior of pollution, the degree of pollution object affected and different harm consequences determine the behavior pollution crime is lack of rationality. As some scholars

argue, "different pollution behaviors are implemented in different ways or intermediaries, with different behavior characteristics and their own nature, and it is not necessary to combine all pollution behaviors together".<sup>[6]</sup> Moreover, although the revised crime of environmental pollution has expanded the scope of the crime, the noise pollution is not included in the crime, and it is also difficult for how to apply the crime.<sup>[7]</sup>

#### ***4.2.2. The Legal Benefit Orientation of the Crime of Environmental Pollution Is Not Clear***

There has always been controversy about the protection legal benefits of the crime of environmental pollution. For the controversial theory, pure ecological legal benefits, and the combination of humanism and ecological legal benefits.

Pure people of this law believe that the ultimate goal of environmental existence is for the interests of human beings, human interests are the central point, and any activity of environmental protection is the interests of human beings as the starting point and foothold. Liszt pointed out: "All laws are made for human reasons. The purpose of making laws is to protect people's survival interests."<sup>[8]</sup> According to the perspective of this law, the purpose of the environmental protection is to protect the interests of human interests are not damaged, there is no need to intervene in the criminal law. This is the traditional humanistic idea of legal benefit. It shows that there is no independent legal benefit in the environment itself, and that everything is human-centered and dependent on the development of human interests.

Pure ecological legal benefit theory. It advocates that ecology is independent of human beings and can dominate human beings. Human beings are an integral part of the whole ecosystem, human beings need to rely on the environment to survive, and the whole ecological environment belongs to the protection and legal benefit of environmental crime. And it recognizes the independent value of environmental legal benefits.<sup>[9]</sup>

The duality of human benefits and ecological legal benefits, it recognizes the independent value of ecological legal benefits. Secondly, it emphasizes that the needs of ecological legal benefits are related to human interests, which are related to the interests of people and the next generation in this area. Both the pure ecological legal benefit and the pure human benefit of this law have limitations. Therefore, the author agrees with the view of "the benefit of human law and ecological comprehensive legal benefit", because the theory perfectly combines the two, and emphasizes that ecological value and human value conform to the course of social development. The theory to guide the environmental crime can be set up the crime of the criminal law to a large extent, which is also generally applicable to the criminal law. On the other hand, the theory has also achieved a general position in the German academia

## **5. Suggestions on Improving the Application of Environmental Crimes in the Criminal Law in China**

### ***5.1. To Legally Expand the Scope of Environmental Crimes in the Criminal Law***

A Special chapter on environmental crimes is set up on the criminal law. Legislative improvement of the charges of environmental crimes, including the specific scope of charges and targeted charges, including their concept, constituent requirements, entry criteria, main characteristics and exceptional circumstances.<sup>[10]</sup> The author thinks that the special chapter and specific charges of environmental crime are set up on the criminal law. It will be of more practical significance to environmental crime cases. First, the architectural system is clear to environmental crimes, more logical thinking for legal thinking. Second, the setting according to the special section to highlight the value of environmental crimes in the criminal law, in line with the national conditions of ecological civilization construction advocated by China. It can not only highlight the value of ecology, but also reflect the independence of ecological legal benefits. From the legislative level, it can subconsciously awaken people's consciousness of ecological civilization, and realize that ecology and human interests coexist and die.<sup>[11]</sup>

Add additional related charges. For example, the crime of noise pollution, air pollution, water pollution and soil pollution, and the crime of adding animal cruelty were included in the environmental crimes. This is of important guiding significance for the control of environmental pollution, improve the ability of environmental governance, promote the modernization and development of social civilization, protect the environment and promote sustainable economic development.

## 5.2. Clarifying the Legal Benefit Orientation of the Crime of Environmental Pollution

To sum up, the pure human benefits of this law and the pure ecological legal benefits have limitations to the punishment regulations of environmental pollution behavior, and are not in line with the development of actual interests. Therefore, the author thinks that its legal benefit should be positioned as: the duality of human nature and ecological legal benefit. Attach importance to the common development of ecology and human interests. As long as the perpetrator infringes on the legal benefits, it can be judged as constituting the crime of environmental pollution.<sup>[6]</sup> The clear positioning of the legal benefits can solve the difficulties encountered in reality. It can accurately find the conviction and sentencing standards suitable for the crime, avoid the situation of wrong judgment and non-judgment, and give full play to the purpose of the criminal law to punish crime and protect environmental interests and human rights.

## 6. Conclusion

Under the background of the era of ecological civilization construction, the environmental problems to be reckoned with, must not repeat the past "environment and economic development" era model, it is the past this thought of the environment and ecology have suffered serious impact that the present has not left in the past thick, environmental governance or a lot of resistance. In order to change this status quo, the scope of application of environmental pollution crime in the criminal law and the norms of relevant systems are clarified. It provides the basis for ensuring the criminal law to play a positive role in environmental crime cases. However, the existing criminal law legislation can not meet the punishment of environmental crime, criminal law still has great room for improvement, so this paper from the definition of environmental crime and environmental pollution crime concept and the connection between the difference, and the application of environmental crime infringement, and criminal law, what problems, relevant Suggestions, solve the environmental crime in judicial practice can effectively handle, so as to better protect the environmental interests and human interests.

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