



**SOLUTIONS TO IMPROVE THE EFFECTIVENESS
OF LAW ENFORCEMENT ON COMPENSATION FOR
DAMAGE CAUSED BY ACTS OF POLLUTING THE WATER
ENVIRONMENT OF ENTERPRISES IN VIETNAM**

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Abstract:

Environmental pollution in general and water pollution in particular is one of the top concerns not only in Vietnam but also for all countries around the world, because environmental pollution can cause many consequences, it not only directly harms human health but also greatly affects the socio-economic development of the country. In order to contribute to the protection of the environment in general and the water environment in particular, the state needs to have sanctions for acts that cause environmental pollution. In this article, the author points out some solutions to improve the effectiveness of law enforcement on compensation for damage caused by acts of polluting the water environment of enterprises in Vietnam.

Keywords: law, compensation for damage, water pollution, enterprises, Vietnam

1. Introduction

Water is one of the important elements of the living environment, directly affecting human life and production. Currently, the water environment is a global problem. Most scientists and managers believe that: water is the most valuable resource in the 21st century; water security will be more important than food security; water can be the cause of global wars. Therefore, protecting the water environment is an urgent task of many countries around the world. This task is included in the national strategy of environmental protection and sustainable development. In Vietnam, environmental protection in general and water environment protection in particular have been paid special attention by the Party and State. The need to perfect the law on water environment protection is an essential need that is being posed to our country. Completing the law on water environment protection is considered the most important measure in creating a

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legal framework to regulate the behaviors of individuals and organizations in the water environment protection.

2. Solutions to improve the effectiveness of law enforcement on compensation for damage caused by acts of polluting the water environment of enterprises in Vietnam

Firstly, strengthen to popularize, educate, and raise people's awareness. The purpose of compensation for damage caused by acts of polluting the water environment is to compensate the loss for the aggrieved party for property, life and health, but more importantly to restore the original state of the environment. Therefore, in order to improve the effectiveness of law enforcement on compensation for damage caused by acts of water pollution, the first solution is to popularize, disseminate, and educate the law on environment and the awareness of environmental protection. Especially, it is necessary to focus on compiling and providing people with documents on the status of environmental pollution, negative impacts of environmental pollution in the world, in the country, in the locality and in the residential area. With the understanding of environmental law, people who suffer damage can claim their rights by themselves. At the same time, the party that pollutes the water environment on the basis of knowledge and awareness of environmental protection will quickly and conscientiously perform its compensation responsibility.

In addition, those who have not done well in environmental protection, through popularizing, educating law, can also change their attitudes and implement better environmental protection. When individuals in society have an understanding of environmental laws and have consciousness of environmental protection, each person will develop their own standards, consciousness, ways of thinking, and take specific actions to respect the environment. Especially, it is necessary to pay attention to educating the consciousness for each citizen to always associate the task of environmental protection with economic development. This is a decisive solution in solving the problem of water pollution in craft villages. Because it is very difficult to apply the liability to compensate for the acts of causing environmental pollution or to build a wastewater treatment system in craft villages with a non-centralized production scale. Therefore, only when each villager has a sense of environmental protection, the implementation of the responsibility to compensate for damage caused by their act of polluting the water environment is actually feasible.

Secondly, strengthen the research and application of science and technology. On the basis that each citizen has knowledge of the law on the environment, has a sense of environmental protection, in order for this awareness to exist in reality, it is better to strengthen the research and application of science and technology to production lines in the direction of environmental friendliness, minimizing the waste. Furthermore, wastewater treatment technology research and application must be strengthened to ensure that wastewater when discharged into the environment does not cause environmental pollution and degradation. This is a decisive solution for the

implementation of the responsibility of eliminating the source of damage of the subjects that have polluted the water environment. To implement this solution, state management agencies in charge of natural resources and environment as well as state management agencies in charge of science and technology need to actively develop and implement the science and technology programs at the grassroots level as well as at the state level.

Enterprises, when innovating technology, applying clean production methods towards sustainable development, with less discharges causing pollution to the water environment, will also contribute to limiting environmental pollutants. Because, applying clean production methods not only limits domestic pollution but also reduces production costs, prices and improves the competitiveness of products, protects the environment.

Thirdly, strengthen the state management. Compensation for damage caused by acts of polluting the water environment is a content of civil law, but due to the specificity of acts of polluting the water environment with great damage and wide influence, so State management have a great impact on the effectiveness of compensation. In order to strengthen state management and improve the efficiency of compensation, the competent state agencies first need to perfect the law on compensation for damage caused by acts of polluting the water environment according to the proposed recommendations as above. The improvement of the law through the addition of unclear contents and the settlement of inadequacies according to the above-mentioned contents will create a sufficient legal framework and facilitate the stakeholders in the process of applying the law.

In addition to completing the legal framework, the competent state agencies also need to strengthen the inspection, examination and strict handling of cases of violations of the law on environmental protection in general and the water environment in particular. Special attention should be paid to the inspection and examination of the implementation of the responsibility to compensate for damage through eliminating the sources of causing damage and remedying the environment by the subjects who are responsible for compensation. Thereby, ensuring that the principle of remedying all damage is implemented in order to realize the goals of environmental protection and the sustainable development of the Party and State as well as of the United Nations.

Fourthly, reform and perfect financial policies. The objective of compensation for damage in general and compensation for damage caused by acts of causing environmental pollution in particular is to remedy and compensate for the damage that occurs. Therefore, in order for this goal to be realized in reality, the financial policy in the field of environment needs to be reformed according to the principle that the subject causing environmental pollution in general and the water environment in particular must pay the costs of treatment, remedy the consequences, and restore the environment to its original state, and at the same time, the obligation of beneficiaries of natural resources and the environment is to contribute back to environmental protection. Besides, in order to effectively carry out the compensation responsibility for environmental remediation, it is necessary to socialize the environmental remediation and treatment, combine expenditures from the state budget with socialized sources to restore the environment to

its original state. In which, capital must be used effectively through promoting the management roles and responsibilities of specialized state agencies.

In addition, the state management agency in charge of the environment should study the establishment of an environmental protection lawsuit support fund with the capital taken from the Vietnam Environmental Protection Fund or from the environmental protection funds of the sector or locality. This is very important for effective compensation for damage caused by acts of polluting the water environment because the Fund will support funding for activities to prove to people who have suffered damage in environmental pollution in general and water environment in particular. In the condition that our law still maintains the principle that the burden of proof belongs to the litigant, the principle of "swapping the burden of proof" has not been recognized in the law, the birth of the fund is a very great support for the victims.

Fifthly, strengthen the international cooperation. The legal framework on compensation for damage caused by acts of polluting the water environment of Vietnam still has certain shortcomings and inadequacies, so strengthening the international cooperation will make compensation activities more effective. Because through the exchange of information, we can learn from the experience of other countries in developing and perfecting the law. Especially, the work of determining damage as a basis for the implementation of the compensation liability of our country is still limited, so it is very necessary to exchange and learn experiences with other countries in the world.

Besides, in order to be able to apply new technologies to ensure the fulfillment of our responsibility to eliminate sources of causing damage, treat and restore the water environment..., international cooperation is the key for us to access new technology. From there, it is possible to apply new wastewater and waste treatment technologies to protect the environment. In addition, we also need to cooperate with international organizations, international forums and related countries such as the countries of the Mekong sub-region to protect transboundary water sources, request the water environment polluter (if any) to compensate for the damage

Sixthly, improve the quality of human resources. Making compensation for damage caused by acts of polluting the water environment is the work of the indemnifying party and the indemnified party, but the role of state agencies and officials of state agencies is very important. Therefore, in order for compensation activities to be really effective, it is necessary to improve the quality of the staffs in state agencies in the field of environment. Accordingly, it needs to improve the professional capacity and management capacity of the staffs through training and retraining activities in both professional knowledge as well as knowledge of environmental laws. Especially, in the context of increasingly developed and modern science and technology, with many changes in the legal framework on the environment to adapt to the change of social life, the training and fostering of staffs must be fully implemented. The training can be done by organizing annual short-term courses for officials of state agencies in the field of environment. In addition, the state management agency in charge of the environment should organize the training courses on skills to identify damage caused by acts of water

pollution, because identifying the damage caused by acts of polluting the water environment is very difficult job.

Seventhly, strengthen the state apparatus organization. Participating in the compensation for damage caused by acts of foreign environmental pollution, in addition to the indemnifying party and the indemnified party, there are many state management agencies such as People's Committees at all levels in local authorities, state management agencies in charge of natural resources and environment at central and local levels, State management agencies in charge of health at central and local levels, etc. Therefore, to the compensation for damage by acts of causing water pollution to be really effective, it is necessary for the unity and smooth coordination of all the above state agencies. Accordingly, competent state agencies need to be consolidated in the direction of unification, centralizing the focal points, overcoming the dispersion and overlapping of management functions and tasks. At the same time, state management agencies improve operational efficiency in handling compensation cases due to acts of causing water pollution through the development of inter-sectoral and inter-regional coordination regulations. In addition, we also need to create opportunities for people to directly supervise the implementation of the responsibility for compensation for damage caused by the subject causing water pollution through building a separate monitoring mechanism for people, because basically the owners of water resources are really the ones who supervise the most effective restoration and destruction of pollution sources.

Eighthly, create pressure from society to make the water polluter quickly compensate for the damage. State agencies need to go into research and develop regulations that allow people to have a voice and put pressure on environmental polluters so that they quickly take responsibility and make compensation for damage due to environmental pollution. The pressure can be done by allowing the environmental protection association, the consumer protection association to launch public movements for the polluter's water pollution behavior. At the same time, it is necessary to boycott the products of these subjects if those subjects do not take responsibility and not quickly compensate for the damage. In fact, Vietnamese consumers have done this very well, which can be clearly seen in the case of Vedan Company Limited releasing waste to pollute the Thi Vai River in 2010 but they did not quickly and promptly fix the problem, compensate for the damage. Consequently, a series of supermarkets and markets in Hanoi and Ho Chi Minh City that jointly made the decision to "boycott" Vedan's products. Moreover, they will only reconsider to stop "boycott" when Vedan has fixed the problem and satisfactorily solved it for farmers.ⁱⁱ

3. Conclusion

In recent years, Vietnam has paid special attention to the improvement of the law on water environment protection to meet the requirements of sustainable development of

ii An Ha - Hoai Nam, "Consensus" to boycott Vedan, <https://dantri.com.vn/xa-hoi/dong-long-tay-chay-vedan-1281614888.htm>, accessed on August 9, 2010

the country. However, the law on water environment protection in Vietnam still reveals limitations. The loopholes in these legal regulations are one of the reasons why water pollution still occurs in reality; measures to remedy consequences of water pollution cases have not been thoroughly implemented. This causes irritation in society, greatly affects people's water sources for daily life and production. Therefore, at present and in the future, Vietnam is still facing major problems of water environment protection. Besides, to meet the requirements of sustainable socio-economic development, the law on water environment protection in Vietnam needs to continue to be improved.

Conflict of Interest

The author declares no conflicts of interest.

About the Author

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