

# *Research on the Principles of Responsibility for Environmental Pollution Crimes under the Concept of Ecological Legal Interest*

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**Abstract:** With the rapid development of information technology and the popularization of the Internet, the network has become an important part of people's life. Network moral education is one of the important contents of cultivating the all-round development of college students in the new era. It not only helps to improve the moral quality and network literacy of college students, but also can promote the healthy growth of college students and enhance their sense of social responsibility and citizenship. At the same time, network moral education is also an important guarantee for maintaining network order and social stability. As the main group of Internet users, college students' network moral education is becoming increasingly prominent. In the new era, it has become an important task of higher education to cultivate college students' good network moral accomplishment and improve their network moral awareness and behavior ability.

## **1. Introduction**

In recent years, with the continuous advancement of industrialization and urbanization, the problem of environmental pollution has become more and more serious, which has had a serious impact on the people's health and social and economic development. In order to solve these problems, we need to intensify the crackdown on environmental pollution crimes and strengthen the punishment and prevention of environmental violations. The principle of imputation is one of the important bases to determine whether the actor bears the legal responsibility, which is of great significance for maintaining social fairness and justice and environmental protection. Therefore, this paper aims to explore the imputation principle of environmental pollution crime in order to provide reference for relevant legislation and practice.

## **2. Concept and characteristics of environmental pollution crime**

### **2.1 Concept of environmental pollution crime**

Environmental pollution crime refers to the criminal act that violates environmental protection laws and regulations, intentionally or negligent discharges pollutants, causes environmental damage or public health harm, and has the characteristics of great social harm and affects sustainable

development.

## **2.2 Characteristics of environmental pollution crimes**

First, it violates the environmental laws and other relevant laws and regulations: environmental pollution crimes usually violate the provisions of national or local environmental protection laws and regulations, including but not limited to the Water Pollution Prevention and Control Law, the Prevention and Control Law of Air Pollution, the Law on the Prevention and Control of Environmental Pollution by Solid Waste, etc.<sup>[1]</sup> The second is the subjective criminal behavior with intentional or negligence: the criminal actor will usually discharge pollutants intentionally or negligent, leading to environmental damage or public health harm.

Third, it causes environmental damage or public health harm and other objective aspects: environmental pollution crimes will cause substantial damage to the environment, such as water pollution, air pollution, but also cause harm to public health. Crimes of environmental pollution not only cause harm to the environment and public health, but also have a negative impact on the economy and society, such as the waste of resources and hindering economic development. Affect sustainable development, environmental pollution crime is not conducive to sustainable development, and will have a negative impact on the balance of the ecosystem and the harmonious development of human society.

## **3. Criminal responsibility for environmental pollution crimes**

### **3.1 Identification of the responsibility subject**

In the crime of environmental pollution, the identification of the subject of responsibility is an important link to investigate the criminal responsibility. According to the provisions of the criminal law, the subject of responsibility for environmental pollution crimes includes natural persons and units. When identifying the subject of responsibility, the following points should be paid attention to: (1) the identification of the subject of natural person responsibility. As the subject of responsibility for environmental pollution crimes, natural person need to have the corresponding ability of criminal responsibility. At the same time, it is necessary to determine the criminal responsibility according to its criminal behavior and harm results.<sup>[2]</sup> For example, in the environmental pollution crime of illegal discharge of toxic and harmful substances, the person directly responsible for the discharge can bear the corresponding criminal responsibility as the subject of natural person responsibility. (2) Identification of the responsible subject of the unit. As the subject of responsibility for environmental pollution crimes, the unit shall have the corresponding legal person status and independent property. At the same time, it is necessary to determine the criminal responsibility of the unit according to the criminal act and the harm result. For example, in the environmental pollution crime illegally discharged by the enterprise, the enterprise can bear the corresponding criminal responsibility as the main responsibility of the unit. (3) Identification of the subject of joint responsibility. In some cases, environmental pollution crimes may be caused by multiple subjects. At this time, it is necessary to determine the criminal responsibility of each subject according to the criminal behavior and harm results of each subject. For example, in the environmental pollution crime jointly discharged by multiple enterprises, each enterprise can bear the corresponding criminal responsibility as the subject of joint responsibility.

### **3.2 Identification of harmful behaviors**

In the crime of environmental pollution, the identification of the harmful behavior is the basis of

investigating the criminal responsibility. According to the provisions of the criminal law, the harmful act refers to the act that threatens or damages to the public security and the ecological environment. When identifying the harmful behavior of environmental pollution crimes, it is necessary to consider: first, whether the actor has violated the environmental protection laws and regulations. These laws and regulations include various environmental regulations, standards and systems formulated by the national or local governments. If the actor fails to comply with the regulations, or takes improper emissions, it can be identified as a violation of the law. The second is whether the emission behavior of the actor has caused the threat or damage to the public safety and the ecological environment. Such threat or damage can be either present or potential. For example, the discharge of toxic and harmful substances, waste water and waste gas, will cause a threat or damage to the public safety and the ecological environment. The third is whether the actor's behavior of pollution discharge is socially dangerous. That is, whether such behavior has the possibility of causing the threat or damage to public safety and ecological environment. If this possibility exists, it can be determined that the act is socially dangerous and thus constitutes a crime.

### **3.3 Causal relationship identification of environmental pollution crimes**

In the crime of environmental pollution, the determination of causality is the key link to investigate the criminal responsibility. According to the provisions of our criminal law, causal relationship refers to an objective and inevitable connection between harmful behavior and harmful result. When determining the causal relationship of environmental pollution crimes, the following points should be considered:

(1) To determine whether the emission behavior of the actor is one of the causes of environmental damage or ecological balance imbalance.<sup>[3]</sup>In many cases, environmental damage or misecological balance imbalance is caused by a combination of a variety of factors, such as natural disasters and emissions from other enterprises. Therefore, other possible factors need to be excluded to determine whether the emission behavior of the actor is the direct cause of environmental damage or ecological balance imbalance.

(2) Determine whether the result of environmental damage or ecological balance imbalance is caused by the emission behavior of the actor. That is, to determine whether there is a direct causal relationship between the actor's emission behavior and the result of environmental damage or ecological balance imbalance. For example, if the actor's emission behavior leads to the pollution of the surrounding farmland, which in turn leads to the death and reduced production of crops, then this causal relationship can be identified.

(3) To determine the objective inevitability of causality. That is, to exclude the existence of contingency factors.<sup>[4]</sup>For example, when identifying the causal relationship between the emission behavior of an enterprise and the pollution of the surrounding farmland, it is necessary to exclude other factors that may cause farmland pollution, such as natural disasters and the application of chemical fertilizer by farmers. Only when this causal relationship has objective inevitability can it be recognized.

### **4. The penalty for environmental pollution crimes is applicable**

According to the provisions of China's Criminal Law, the punishment of environmental pollution crimes should be comprehensively considered according to the circumstances of the crime, the degree of harm and the subjective malignancy of the perpetrator. Specifically, the application of punishment for environmental pollution crimes should include the following aspects:

#### **4.1 The application of free punishment**

Free punishment is one of the most common punishment methods for the perpetrators of environmental pollution crimes. According to the Criminal Law of China, the perpetrator of the environmental pollution crime should be sentenced to the corresponding free punishment, such as fixed-term imprisonment, criminal detention, etc. In the application of free punishment, the term of free punishment is determined according to the circumstances of the crime and the degree of harm. A criminal who causes serious environmental damage or ecological balance shall be given a heavier sentence; a criminal whose circumstances are minor may be given a lighter sentence. In the punishment application of environmental pollution crime, free punishment is one of the most common punishment methods. However, for different criminal circumstances and degrees of harm, the appropriate punishment method should be chosen according to the specific circumstances. In addition to free punishment, other additional types of punishment can also be considered, such as fines and deprivation of political rights.

#### **4.2 Application of property punishment**

Property punishment refers to a punishment method in which the property income of the criminal actor is used to compensate the victim or the social public interests. In the case of environmental pollution crime, the application of property punishment can effectively punish the criminal perpetrator, and also provide certain economic compensation for the victim. It should be noted that the application of property punishment needs to be strictly controlled to avoid unfair abuse.

#### **4.3 Application of probation and parole**

Probation and parole are two different ways of applying the punishment. Probation refers to the suspension of the original sentence within a certain period of time. If the criminal complies with the relevant provisions during the probation period, the original sentence can not be executed; parole is the release of the criminal home, but still needs supervision for a certain period of time. In environmental pollution crimes, the application of probation and parole should pay attention to the following points:

(1) Whether the perpetrator really repented. The purpose of probation and parole is to encourage criminals to actively reform and return to society. Therefore, the actual performance and rehabilitation of the offender should be considered in determining whether probation or parole is applicable.

(2) Whether there is a social danger. Probation and parole do not imply complete exemption from criminal liability, so the social danger of the offender is effectively reduced in determining whether probation or parole is applicable.

### **5. The principle of accountability for environmental pollution crime**

#### **5.1 Theoretical basis of the imputation principle**

Environmental pollution crime is a serious social problem, which poses a great threat to the environment and human health. In order to effectively combat environmental pollution crimes, it is necessary to follow certain principles of accountability to ensure a fair, just, timely and effective investigation of criminal responsibility.<sup>[5]</sup>In China's criminal law, it mainly includes the principles of negligence liability and intentional liability:

### **5.1.1 The principle of negligence liability**

Negligence refers to the psychological attitude that the actor should foresee that his behavior may be the result of harm to the society, and can be avoided because he and carelessly. In environmental pollution crimes, the principle of negligence liability mainly applies to the situation where the doer violates environmental protection laws and regulations due to negligence or overconfidence, resulting in environmental damage or ecological balance imbalance. For example, the wastewater discharged by an enterprise did not meet the standards set by the state, resulting in the pollution of the surrounding farmland and the damage of the farmers. The person in charge of the enterprise did not foresee the consequences due to negligence, and should bear the corresponding criminal responsibility according to law.

### **5.1.2 The principle of intentional imputation**

In China's criminal law, intentional refers to the psychological attitude that knows that one's behavior will harm the society and hopes or allow this result to happen. In environmental pollution crimes, the principle of intentional attribution mainly applies to the situation where the perpetrator intentionally violates environmental protection laws and regulations, causing environmental damage or ecological balance imbalance. For example, in order to pursue economic interests, an enterprise deliberately discharged waste water beyond the standard, resulting in serious pollution of the surrounding farmland and heavy losses of farmers. The person in charge of the enterprise allowed this result to occur because of the pursuit of economic interests, and should bear the corresponding criminal responsibility according to law.

## **5.2 Analysis of the principle of attribution in China**

Environmental pollution crime is a serious social problem, which poses a great threat to the environment and human health. In order to effectively combat environmental pollution crimes, it is necessary to follow certain principles of accountability to ensure a fair, just, timely and effective investigation of criminal responsibility. This paper will discuss how to improve the accountability principle of environmental pollution crime, mainly including the principle of strict responsibility, the identification of causality, the inversion of the burden of proof and the setting of statutory punishment.

### **5.2.1 Strict principle of responsibility**

The principle of strict responsibility means that when investigating the environmental pollution crime, the actor should be given strict responsibility, that is, as long as the actor's behavior violates the laws and regulations on environmental protection, causing environmental damage or ecological imbalance, whether the subjective fault or not, he should bear the corresponding criminal responsibility. This principle can be effective in combating environmental pollution crimes, especially in cases that are subjectively difficult to prove guilt. The doctrine of strict liability applies only to criminal proceedings for environmental pollution crimes and not to civil proceedings. It does not mean that the actor does not bear any burden of proof, but requires the complaint to bear the main burden of proof. It should be combined with the principle of crime and punishment, that is, the criminal responsibility and punishment measures of the perpetrator should be taken into account according to the nature, circumstances, consequences and influence of the crime.

### **5.2.2 Cause and effect relationship identification**

When improving the accountability principle of environmental pollution crime, the identification of causality is one of the key links. In order to accurately identify the causal relationship of environmental pollution crimes, it is necessary to adopt scientific methods and technical means to conduct qualitative and quantitative analysis of environmental pollution. Specifically, the following measures should be taken: First, a professional technical team should be established to be responsible for the monitoring, analysis and evaluation of environmental pollution. The second is to use modern scientific and technological means, such as environmental chemical analysis, environmental biology analysis, qualitative and quantitative analysis of environmental pollution. The third is to establish an environmental information sharing platform to realize the sharing and exchange of environmental data, so as to facilitate the comprehensive analysis and assessment of environmental pollution. The fourth is to establish an environmental impact assessment system to carry out environmental impact assessment on projects that may cause environmental damage or ecological imbalance, so as to detect and solve environmental pollution problems in a timely manner.

### **5.2.3 Inversion the burden of proof**

In the attribution principle of environmental pollution crime, the inversion of burden of proof is an important perfect measure. It means that in the case of environmental pollution crime, the defendant should bear the main burden of proof, that is, the defendant should prove that he has not committed a criminal act or has a legal defense. This measure can effectively protect the legitimate rights and interests of the defendant and avoid the occurrence of unjust, false and erroneous cases. When implementing the inversion of the burden of proof, the defendant shall bear the main burden of proof, but if there are reasonable doubts or insufficient evidence, the plaintiff shall still bear a certain burden of proof; the evidence provided by the defendant shall be objective and legal, and shall not provide false or illegal evidence; if the defendant cannot provide sufficient evidence to prove his innocence or have a defense, he cannot simply be found guilty.

### **5.2.4 Legal punishment setting**

The setting of statutory punishment is one of the important aspects to improve the principle of environmental pollution crime. In order to effectively crack down on environmental pollution crimes, it is necessary to set up legal punishment reasonably to ensure the fairness and effectiveness of punishment. Specifically, the following measures should be taken: The first is to increase the types and intensity of penalties for environmental pollution crimes, such as increasing fines, imprisonment and other penalty measures, in order to improve the deterrence of penalties. The second is to formulate different penalty standards according to the nature, circumstances, consequences and influence of the crime, so as to facilitate the accurate punishment and education of different types of environmental pollution crimes. The third is to establish a progressive system of punishment, to increase the punishment of the environmental pollution crime, in order to curb the recurrence of crime. The fourth is to establish the easy department system of punishment, that is, for those who cannot bear the punishment because of economic difficulties or other reasons, other alternative measures can be taken to replace the punishment.

### **5.2.5 The principle of limitation of compensation liability**

The principle of limiting liability for compensation means that the liability of the defendant should be restricted when investigating the criminal liability of environmental pollution crimes.



This principle is mainly to prevent the defendant from being unable to bear the economic compensation ability due to the excessive liability, thus affecting its transformation and re-socialization. In practice, the principle of compensation liability limitation can be realized by formulating the corresponding laws and regulations.

#### **5.2.6 The principle of double attribution**

The principle of double liability means that when investigating the criminal responsibility of environmental pollution crime, the defendant's behavior should be double liability, that is, not only the criminal responsibility of intentional crime, but also the criminal responsibility of negligent crime. This principle is mainly intended to comprehensively crack down on the criminal behavior of environmental pollution, no matter whether the actor is out of intent or negligence, he should bear the corresponding criminal responsibility.

#### **5.2.7 Lack of cause management principle**

The principle of the management without cause means that when investigating the criminal responsibility of environmental pollution crimes, if the defendant commits the illegal act in order to protect the public interest, his criminal responsibility should be reduced. This principle is mainly to encourage the public to actively participate in the cause of environmental protection, play the role of social supervision, but also can play a positive role in promoting the implementation of environmental protection laws and regulations.

#### **5.2.8 The principle of self-responsibility**

The principle of self-responsibility refers to that the subject responsible for environmental pollution crimes should bear the legal responsibility caused by its own criminal behavior. In environmental pollution crimes, the subject of responsibility usually includes enterprises and individuals. According to this principle, if enterprises and individuals violate environmental protection laws and regulations in the process of production and operation, causing environmental damage or imbalance of ecological balance, they shall bear the corresponding legal responsibility.

#### **5.2.9 The principle of fairness and justice**

The principle of fairness and justice means that when investigating environmental pollution crimes, all perpetrators should be treated equally, without taking sides of any party, and be punished in accordance with the principle of corresponding crime and punishment. Specifically, a fair ruling should be made according to the criminal nature, circumstances, consequences and influence of the criminal actor, and comprehensively considering his social danger and personal danger. At the same time, it should also ensure that the criminal actor enjoys the legitimate rights and interests such as the right of defense.

#### **5.2.10. Timely and effective principle**

The principle of timely and effective means that the principle of timely and efficient cases should be followed when investigating environmental pollution crimes to ensure that cases are handled in time and effectively executed. Specifically, the trial period of cases should be shortened as far as possible to reduce the litigation cost of cases and improve the trial efficiency of cases. At the same time, we should also strengthen the prevention and treatment of environmental pollution crimes to fundamentally curb the occurrence of environmental pollution crimes.

## 6. Conclusion

The accountability principle of environmental pollution crime is an important guarantee to ensure the fair, just, timely and effective investigation of criminal responsibility. In practice, we should strictly abide by these principles, and constantly sum up the experience and lessons, and constantly improve the relevant laws and regulations and technical means, so as to provide more powerful support and guarantee for the fight against environmental pollution crimes.

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