

REVIEW

On the Criminal Law Protection of the Marine Ecological Environment

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ABSTRACT

With the continuous and rapid development of the country's economy and society, it has greatly promoted the leap of the marine economy and brought more severe challenges and tests to the protection of marine ecological environment. How to effectively measure the criminal law protection of the marine ecological environment and take effective measures Measures to deepen the effects of marine ecological environmental protection have become one of the focus topics of widespread concern in the industry. Based on this, this article first introduces the protection of marine ecological interests in China's criminal law, analyzes the necessity of adjusting the ecological environment in criminal law, and discusses the deficiencies in China's marine legal system and combines relevant practical experience to improve the marine environment. Various angles and aspects, such as laws and regulations related to resource crimes, put forward the basic approach to strengthen the criminal law protection of the marine ecological environment, and hope to help the practice of related work.

1. Introduction

Compared with the terrestrial ecological environment, the marine ecological environment is relatively fragile, its complexity and systemicity are prominent, and pollution control is more difficult. Therefore, it is necessary to always adhere to the "prevention-oriented" ecological environmental protection concept. In the field of law, it is necessary to improve the legal system structure, improve the legal system, and through the deterrent effect of a series of laws such as criminal law, reduce unnecessary marine ecological environmental pollution and strengthen the effects of marine ecological environmental protection. This article explores this.

2. Overview

China's marine resources are extremely rich, and it has a relatively wide coastline. For a long time, the state has adopted a series of major policies and policies in the development and utilization of marine resources, achieved a series of realistic achievements that have attracted worldwide attention, and accumulated a series of extremely rich and valuable experience in the development and utilization of marine resources. Once upon a time, under the influence of economic development models and economic structures, there were significant ecological damage and environmental pollution problems in the use of marine resources, which was not conducive to the protection of marine ecological environment, to the healthy and stable development of economic and social undertakings, and

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to the healthy and stable development of economic and social undertakings. Timely and effective adjustment of economic structure. Studies have shown that the cause of this situation is largely due to the absence of relevant laws and regulations. Because the relevant laws and regulations are not perfect, there are some legal regulatory gaps in the practice of marine ecological environmental protection, which leads to the lack of necessary legal basis and support for the adoption of relevant legal measures and approaches, making the judicial practice of marine ecological environmental protection more passive. Therefore, in the new situation, it is of profound practical significance to explore the criminal law protection of the marine ecological environment. By strengthening the basic approach of criminal law protection of the marine ecological environment and improving the effectiveness of marine ecological environmental protection, it has extremely profound practical significance ^[1].

3. Analysis on the Protection of Marine Ecological Interests in China's Criminal Law

As early as the end of the last century, some provisions of China's criminal law clearly defined the "crime of major environmental pollution accidents" and its constituent conditions, which provided directional guidance for the legal practice of ecological environmental protection. In order to further strengthen legal practice, the Supreme People's Court explained in detail the criminal cases of ecological environment pollution, and published the corresponding important documents, pointing out the different manifestations of different types of crimes. The promulgation of these regulations and explanations laid the foundation for effectively combating marine ecological environmental crimes, and made the provisions of criminal law concerning ecological environmental protection more feasible and authoritative. With the continuous development of the economy and society, marine ecological environmental protection is facing new situations, new tasks and new requirements. The state has revised the crime of major environmental pollution accidents again, expanding its scope of application and applicable conditions, and making ecological environmental crimes more accessible. The crime threshold has been significantly reduced, which has effectively deterred and cracked down on marine ecological environmental crimes and provided legal guarantees for marine ecological environmental protection.

On the whole, however, the marine ecological environment is becoming more complex and diversified, and the need for criminal law protection to match it is becoming

stronger. In addition to the requirement of judicial uniformity, it is necessary to add a "crime of major marine environmental pollution accidents", And strictly define its constituent conditions and penalty constraints. After the marine ecological environment crimes are committed, the damage to marine ecology is incalculable and difficult to repair. Although criminal law can be punished for criminal law protection, the value of the marine ecological environment is difficult to recover, so it must be upheld. The "protection-oriented" criminal law protection concept strengthens the pre-control of illegal crimes. In the practice of criminal law, for marine ecological environment pollution cases, more emphasis is placed on casualties and property damage, and insufficient consideration of the damage to marine ecological values, so that some offenders and dangerous criminals that pollute the marine ecological environment can escape legal sanctions. Issues of great importance ^[2].

4. Necessity of Adjusting Ecological Environment Problems in Criminal Law

In the practice of criminal law, how to restrict the protection of the marine ecological environment through effective provisions has always been a focus and difficulty. Against the background of pursuing high-quality economic benefits, it is imperative to severely crack down and punish marine ecological environmental violations through criminal law protection.

4.1 Protection of Ecological Environment by Traditional Criminal Law

Under the traditional concept of criminal law, there are higher requirements and voices for the ecologicalization of criminal law. The crimes of natural environment clearly defined in the criminal law pay more attention to causing major environmental pollution accidents, causing heavy losses to public property, or causing heavy casualties. Such criminal elements do not fully consider the elements of ecological environment protection, but the facts show that the profound value contained in marine ecological resources far exceeds the value of their property ^[3].

4.2 Impact of Ecological Ethics on Ecological Environment

Under the condition of ecological ethics, it advocates the construction of a harmonious and coexisting, mutually reinforcing, and mutually reinforcing ecological environment relationship, and respects the inherent value of protecting the natural environment while protecting the basic interests of mankind. It is not easy to ensure both economic benefits

and ecological environment benefits and promote the coordinated development of the two. It is even more difficult to protect the immediate interests of the ecological environment and achieve sustainable development of economic and human interests in the future. Therefore, the impact of ecological ethics on the ecological environment is extremely profound and cannot be ignored ^[4].

4.3 Preventive Function of Ecological Environment Protection in Criminal Law

In the past legal practice of ecological environment resources, there was a lack of clear definitions of accomplices and dangerous offenders. Most of those who were subject to legal sanctions were result offenders and plot offenders, and their criminal practice was relatively insufficient. Damage to the natural environment requires more economic costs, which are much higher than the cost of crime prevention. Therefore, it is extremely important to highlight the preventive function of the law on ecological environment protection. Natural resource crimes under current criminal law constraints are difficult to highlight the key values and advantages in preventing ecological environmental crimes, making the relatively more fragile marine ecological environmental protection face more severe challenges ^[5].

5. Defects in China's Marine Legal System

In today's society, the state attaches great importance to marine ecological environmental protection, actively explores to provide reliable criminal law and other legal guarantees for marine ecological environmental protection, and it is extremely urgent to construct a feasible and authoritative legal system. However, judging from the objective status quo of the current marine laws and regulations system, there are many defects and deficiencies that cannot be ignored. Specifically, it mainly manifests in the following aspects.

5.1 Imperfect marine legal system and lack of prominent marine economy

Protecting the marine ecological environment requires a sound and complete legal and regulatory system as a guarantee to lay a legal foundation for relevant judicial practice. In terms of legislation, although the state continues to pay attention to the protection of marine ecology, safeguard marine rights and interests, and gradually explore and form a system of marine laws and regulations with its own characteristics. Common problems, lack of attention to marine economy and marine ecology, unable to provide necessary legal references for marine ecological environ-

mental protection, making some legal practices unruly and groundless, leading to the escape of some criminals who pollute the marine ecological environment Due legal sanctions ^[6].

5.2 The Constitution of the Marine Legal System is not Well Founded

The Constitution is the mother law of the People's Republic of China and the root of other laws and regulations. The formulation and implementation of all laws and regulations must be carried out within the scope of the Constitution. In the provisions of the Constitution, no special and systematic reference is made to the issue of the marine ecological environment. When it comes to the marine ecological environment, additional provisions are mainly used, which makes the formulation of a series of laws and regulations such as the Criminal Law lack. It has been fundamentally followed. The foundation of marine laws and regulations in the Constitution is inadequate, which has largely weakened the key position and important value of marine laws and regulations ^[7].

5.3 Incomplete Marine Legal System

In the current situation, marine ecological environmental protection covers a wide range and involves a lot of content, which places higher requirements on the content of marine laws and regulations. The status quo of marine laws and regulations system shows that although some laws involve marine ecological environmental protection and marine rights and interests, the content is relatively single, there is significant narrowness, and the synergy and integrity are relatively insufficient. The island development, coast construction, marine use, etc. The constraints lack a thorough and comprehensive coverage. The existence of such a situation makes the marine ecological environment protection in a passive position for a long time, and it is difficult to effectively reverse it, and to a certain extent, it has become an obstacle to the continuous improvement and improvement of the quality of marine ecology protection.

6. Basic Approaches to Strengthening Criminal Law Protection of the Marine Ecological Environment

6.1 Improve Laws and Regulations Related to Marine Environmental Resource Crime

In order to effectively strengthen the protection effect of the marine ecological environment criminal law, perfect-

ing laws and regulations related to marine environmental resource crimes is the first task. Only judicial practice based on the systematic and perfect marine ecological environment laws and regulations can have a lively vitality and Driving force. On the whole, marine environmental resource crimes have significant administrative subordinate characteristics, and marine ecological environmental resource crimes stipulated in the provisions of criminal law are often based on violations of general administrative regulations. Therefore, on the basis of improving the legislation on the criminal law of marine ecological environmental protection, it is also necessary to cooperate with and improve various administrative regulations related to marine ecological environmental resource crimes, so that laws and regulations are closely integrated with administrative regulations, and work together to build a three-dimensional and hierarchical structure. Legal and regulatory system^[8].

6.2 Improve Existing Criminal Legislation

It is necessary to establish a unified marine environment judicial standard and overcome the problem of non-coordination between many laws and regulations. For example, the “criminal of environmental supervision” stipulated in the Criminal Code of China has contradictions in the starting point and the case registration criteria with subsequent judicial interpretations. The case registration criteria are 300,000 yuan and 150,000 yuan, respectively. The existence of the law tends to cause inconsistency in judicial practice and confusion in the scope of application, which will affect the authority of the criminal law to a certain extent. Therefore, effective adjustment must be made. At the same time, for the prerequisites of some crimes, it is necessary to strictly and effectively define the difference between “intentional” and “negligence” in marine ecological environmental pollution, and implement more flexible non-penalty punishment methods, set up additional penalties such as cleaning up pollutants, The ecological environment becomes a real beneficiary.

6.3 Improve Judicial Protection of the Marine Environment

The issue of criminal law protection of the marine ecological environment is also closely related to the qualifications of investigating agencies and prosecutors in the Criminal Procedure Law. Different from other types of criminal cases, marine ecological environmental crime cases are more due to the transfer of administrative law enforcement departments, and the criminal justice department has no right to intervene in the investigation of marine ecological environmental crime cases in the first place, either

because of local protectionism or because of departmental interests. , Or lack of understanding, there are often some cases of marine ecological environment that have clearly violated the criminal law, but have not been held in place according to law. Therefore, we can refer to the advanced experience and typical practices of other countries to break through the obstacles and restrictions in the transfer of judicial cases. For example, we have adopted measures such as the establishment of ecological environment police and the establishment of criminal investigation departments within marine administrative law enforcement agencies. Based on the actual situation of the case, it was transferred to the judicial organs^[9].

6.4 Smooth Channels for Public Participation in Reporting and Exposing Crimes in Marine Environmental Resources

The public is an important force in the practice of marine ecological environmental protection. Public reports and disclosures are important channels for obtaining clues on marine ecological environment issues. We must always focus on encouraging the public to actively pay attention to prosecutions and uncovering channels for the public to provide case clues. It is necessary to take effective measures to encourage the established civil environmental protection organizations to bring into play the role of applied social supervision and fully demonstrate their special value in combating marine ecological environmental crime. It is necessary to strengthen the propaganda of the news media, create a public opinion atmosphere to protect the marine ecological environment and strengthen the protection of criminal law within the whole society, and build a platform for comprehensive, true, and objective collection of criminal clues to marine ecological environment resources.

6.5 Strengthening the Collection of Evidence of Crimes against Marine Environmental Pollution

In the practice of criminal law protection of the marine ecological environment, the collection of criminal evidence has certain characteristics, and the criminal evidence related to marine ecological environmental pollution is extremely difficult to collect. It is necessary to prove that its behavior has violated marine laws and regulations, and it must be proved Illegal acts have caused certain harm to the marine ecological environment, as well as subjective faults of the implementers of the illegal acts. Therefore, it is necessary to regularly organize relevant personnel to participate in special training and learning so that they are familiar with the marine ecological envi-

ronment laws and regulations, and have an understanding of ship transportation, fishery production, and coastal construction, and build a professional and comprehensive high-level legal talent team. At the same time, we must actively promote the involvement of third-party professional appraisal agencies to make up for the lack of professional skills.

6.6 Clarify Responsibilities and Break through Obstacles

Undoubtedly, under the current marine ecological environment laws and regulations, to some extent, there are problems such as unclear criminal responsibilities and obstacles to applicability, which bring certain inconvenience to the investigation and criminal accountability of marine ecological environmental crimes. Therefore, through strict clarification of responsibilities, we must break through the obstacles to the applicability of some existing legal provisions, make detailed judicial interpretations of marine ecological environment pollution, improve the consistency between the relevant provisions of the Criminal Code and subsidiary criminal laws, and avoid criminal accountability in judicial practice. Disorder and chaos. For the loss of liability during maritime transportation, the necessary limitation clauses of liability shall be set up, leaving a certain margin for the occurrence of maritime transportation accidents to fully meet the complexity characteristics of the marine environment^[10].

7. Conclusion

In summary, affected by aspects of management model, system architecture, and social missions, there are still many shortcomings and deficiencies in the protection of criminal law in the marine ecological environment, which restrict the overall effect of criminal law. Therefore, relevant personnel should proceed from the objective actual needs of marine ecological environmental protection, fully follow the basic laws of criminal law protection, improve laws and regulations related to marine environmental resource crimes, improve current criminal legislation, and improve judicial protection of the marine environment. Comprehensive measures to effectively highlight the value of criminal law in marine ecological environmental protection and provide a solid and reliable legal guarantee

for the long-term stable and healthy development of marine ecological environmental protection.

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