

# Manage the Environment for Security Development With the Legal Method at Vietnam

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**Abstract:** In the current period, the Party and State are actively promoting the industrialization and modernization, step by step integrating deeply and comprehensively with the international. Harmonizing the relationship between sustainable development and environmental protection has become one of the key requirements in the socio-economic development strategy. To do this, environmental protection is very important and one of the basic and effective management tools is the law. The paper focuses on analyzing the role of law in environmental protection management and current situation analysis and suggests some solutions to improve the effectiveness of using legal instruments in environmental protection management in Vietnam. Male.

**Key words:** environmental management, environmental protection, sustainable development, management tools, law

## 1. Introduction

It can be seen that rapid urbanization and industrialization in Vietnam is changing the environmental conditions in both urban and rural areas. “The environment and development have a very close relationship: the environment is the area and the object of development is also the cause of environmental change” [1]. Therefore, the demand for environmental protection of sustainable human development has become one of the important objectives in the strategic orientation of socio-economic development in Vietnam. The Constitution of 2013 states: “Everyone has the right to live in a clean environment and to be obliged to protect the environment” (Article 43).

In the light of the above challenges, the system of legal normative documents on environmental protection has been continuously improved. The Law on Environmental Protection was first promulgated in 1993 and amended twice in 2005 and 2014 (Law No. 52/2005/QH11 and Law No. 55/2014/QH13). The law

provides a legal basis for environmental protection. Among the important legal tools contributing significantly to the protection of the environment directly and effectively include the Law on Handling of Administrative Violations and the documents detailing the implementation of the Law on Handling Administrative Violations.

With the above-mentioned legal documents, the environmental protection management has a firm legal basis. However, in practice, the use of legal instruments in environmental protection management or in other words the application of environmental legislation is still inadequate to be overcome.

## 2. Material and Methods

In this article, we have used some analyzes and conclusions of Vietnamese researchers on the environment and environmental management by law in Vietnam as a reference. The results of the study are based on the methodology of systematization, analysis — synthesis and comparison of theories, views and methods. In addition, we synthesize and analyze data provided by the Ministry of Natural Resources and

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Environment on reports on the handling of violations in the field of environment.

### 3. Results and Discussion

#### *3.1 Some Basic Theoretical Issues on Environmental Protection Management for Sustainable Development Through Legal Instruments in Vietnam*

##### 3.1.1 Environmental Management and Sustainable Development Principles

The environment is a very broad concept and is used in many different fields. In life, people use many environmental concepts such as pedagogical environment, social environment, educational environment ... The environment used in the field of legal science is understood as interrelationship, interpersonal and natural systems in which the environment is understood as the elements, circumstances and natural conditions surrounding human beings. Clause 1 of Article 3 of the Law on Environmental Protection adopted by the 18th National Assembly of the Socialist Republic of Vietnam at its Seventh Session on June 23, 2014, defines as follows: natural and man-made elements that have an impact on the survival and development of humans and organisms. Thus, according to the definition of the Law on Environmental Protection, man becomes the center in relation to nature.

The environment is made up of innumerable physical factors. Among them, natural elements such as earth, water, air, light, sound, flora and fauna are of special and important significance. These elements are considered to be the basic components of the environment. They form and develop according to the natural laws inherent and beyond the ability of human decisions. Humans can only affect them in a certain way. In addition to the physical elements, the environment also includes artificial elements. These factors are created by humans to influence the natural elements to cater to their own needs.

The current environment is changing for people, especially natural factors such as water, soil, air, flora

and fauna. Bad environmental change is taking place globally as well as within each country. The environmental status of Vietnam also has the common features of the world environment: "In large cities, pollution is also at a dangerous level. These are wastewater, household waste, medical waste, air, noise, etc." [2].

The process of industrialization and modernization in Vietnam is in the process of vigorous development. Not only in the city but also in the countryside. This process has brought great achievements for the country. But the problem of natural environment is heavily polluted, causing negative impact on production and life. Industrial parks, industrial clusters, and modern new urban areas have sprung up, and commodity production and processing of agricultural products and foodstuffs in rural areas have become increasingly active. Therefore, solving environmental problems through economic development policies in parallel with environmental protection is an urgent issue that is set by the State at present. On June 9, 2014, the Prime Minister signed Decision No. 879/QĐ-TTg approving Vietnam's industrial development strategy up to 2025 with a vision to 2035. In relation to the environment, The development of industry on the basis of green growth, sustainable development of environmental protection.

In any country, industrial development often involves the risk of environmental pollution. If you do not care about prevention from the beginning, the danger will be unfathomable. In fact, there are already so many fast-growing industrialized nations that have paid dearly for this. Industrialization is often accompanied by rapid urbanization, high levels of emissions, the rate at which natural resources are exploited, and environmental degradation. Exhaustion affects public health and threatens the entire ecosystem.

After more than 30 years of innovation, Vietnam's industry has an average growth rate of more than 10% per year, contributing positively to the socio-economic

development of the country. But industry is also one of the industries that produce the most waste, negatively affecting the ecological environment. High polluting industries such as coal and mineral mining; electricity production; chemical industry; metallurgical industry; food industry, textiles, leather and footwear ..., the government has to solve the problems with high efficiency. The policy of protecting the environment in the process of industrialization is really an urgent matter and requires that these policies must both ensure the goal of industrialization and modernization succeeds, ensuring the ecological environment to reach the safety threshold.

This situation requires that the environment is managed strictly and scientifically. "Environmental management is a combination of appropriate economic, technical and social measures, laws and policies to protect the quality of the living environment and sustainable development of the national socio-economic" [2]. The main objectives of the state management of the environment include:

- To overcome and prevent degradation and environmental pollution arising in human life.
- Sustainable development of the national economy and society according to nine principles of a sustainable society proposed by Rio-92. The aspects of sustainable development include the Sustainable development of the economy, protection of natural resources, zero pollution and degradation of habitat quality, enhancement of commune civilization and justice. Assembly.
- Develop tools that are effective in managing the national and territorial environment. The above tools should be appropriate for each sector, locality and community.

With the main objectives of the state management of the environment, we see that environmental management is not separate from the principle of sustainability. Sustainable development is a category formed by the need for environmental protection. The

essence of sustainable development is the combination of development with environmental sustainability or, in other words, the fundamental element of sustainable development, the right to development and the need for environmental care. Although there is no comprehensive and consistent definition of sustainable development, it is an inescapable link between development and protection of the environment.

The concept of "sustainable development" has emerged in the environmental movement since the early 70s of the 20th century. In 1987, the World Council on the "Common Future" Environment and Development (WCED) of the United Nations, "Sustainable Development" is defined as "development that meets the requirements of the present but does not hinder the fulfillment of the needs of the future generations".

In Vietnam, the viewpoint of sustainable development has been affirmed in the Party's policies and policies (such as the Political Bureau's Directive No. 36-CT/TW of June 25, 1998, on intensifying the protection of the environment. During the national industrialization and modernization, Resolution No. 41-NQ/TW dated November 15, 2004, of the Politburo on environmental protection in the period of accelerating the industrialization and modernization of the country. and the legal documents of the State (Strategic Orientation for Sustainable Development in Vietnam (Agenda 21 of Vietnam) issued together with Decision No. 153/2004 / QD-TTg dated 17/8/2004 of the Prime Minister, the National Strategy for Environmental Protection up to 2010 and orientation to 2020 was approved by the Decision No. 256/2003/QD-TTg dated December 2, 2003, of the Prime Minister). The Vietnamese government has a common vision of sustainable development: "Sustainable development is a development that meets the needs of the present without compromising the ability to meet that need of the generation." (Article 4, Article 3 of the Law on Environmental Protection, 2014).

To ensure the principle of sustainability in environmental management requires the State to use a variety of measures because “environmental management is a combination of measures, laws, economic and technical policy, commune” [2], therefore, the law is one of the measures to manage the environment or in other words the law is a particularly important tool in the management and protection environment.

In short, the threat of environmental damage to its serious consequences has forced states to pay more attention to effective measures to protect the environment. Many economic, social and organizational measures have been implemented to effectively protect the environment. The environment can be protected under many different levels and measures, including Organizational and Political Measures, Economic Measures, Scientific and Technological Measures, Educational Measures, Legal Measures physical. It can be said that it is difficult to list all the measures that countries have taken to effectively protect the environment. However, when it comes to environmental protection, we cannot ignore legal measures.

### 3.1.2 Law Is A Particularly Important Tool in Environmental Management for Sustainable Development

Environmental management tools are the means of action to implement the environmental management of the state, scientific organizations and production. Each tool has a certain function and scope of influence, links and supports each other. Environmental management tools can be classified by nature into the following basic categories:

“Legal or policy instruments, also known as legal instruments, include documents on international law, national law, other legal documents (ordinances, decrees, regulations, schools, environmental permits, etc.), national environmental plans, strategies and policies, economic sectors and localities” [3].

Economic instruments include taxes, fees charged

on cash income from production and business activities. These tools only apply effectively in the market economy.

Technical management tools play the role of controlling and supervising the state of the quality and composition of the environment, on the formation and distribution of pollutants in the environment.

As such, the law belongs to the group of instruments of policy law in environmental management. The role of the law in environmental management is particularly important. The environment is mostly ruined by human destruction. It is the people who exploit the elements of the environment that lose ecological balance, pollute. Therefore, the need to protect the environment must first affect people by means of state management in which the law must be mentioned. Law as a system of rules regulating human behavior will have a great effect in protecting the environment. The significance of the law in environmental management is reflected in the following aspects:

First, the law provides for the rules of conduct that humans must take when exploiting and using elements of the environment. Laws have guided human behavior in an environmentally beneficial way, ensuring that human behavior does not harm the environment, limit harm, prevent degradation and environmental pollution.

Second, the law provides for criminal, economic and administrative penalties to force individuals and organizations to fully comply with legal requirements for the exploitation and use of environmental factors. In reality, subjects who participate in socio-economic activities tend to pay attention to their own interests but ignore the common interests of the environment and the community, ignore the obligation to do with the environment and not be aware of the responsibility of environmental protection. For example, when carrying out environmental impact assessments, project owners often do not foresee their interests, so they always seek to shirk their legal obligations to the environment. At the same time, the sanctions prescribed by the law play

an important role in protecting the interests of the organization itself, the individual and the long-term common interests of the society. These sanctions are not only punitive measures that violate the environmental law, prevent, educate and rehabilitate violators but also detain other subjects so that they can voluntarily follow the legal norms of protection. the environment, thereby preventing and limiting the negative impact of man on the environment. Therefore, the law provides for administrative and civil sanctions. to enforce the law on the exploitation and use of environmental factors.

Third, the law defines the functions, tasks and powers of environmental protection organizations. As we all know, all aspects of social life require state management and the environment is no exception. Moreover, environmental protection is a complex task, because the environment is a large and complex structure, so it is necessary to have a suitable and effective organizational management system. Legislation has played an important role in creating a working mechanism for organizations and agencies to protect the environment. The promulgation of legal documents creates the legal basis for these agencies to perform their functions, tasks and powers, ensuring the good performance of the State management over the environment. The legislation also divides tasks among agencies, avoids overlapping management, and creates a harmonious and synchronous coordination among agencies and enhances the effectiveness of state management of the environment.

Fourth, the law promulgated environmental standards. Environmental standards are the permissible limits of environmental quality parameters and the concentration of pollutants in wastes designated by competent state agencies as the basis for management and protection. environmental protection. Adopt legislation that environmental standards will be strictly observed by organizations and individuals when exploiting and using elements of the environment. At the same time, environmental standards also serve as a

legal basis for identifying environmental law violations and prosecuting those behaviors.

Fifth, the law stipulates the reward and support for environmental protection In Paragraph 2, Article 63 of the Constitution, the Constitution states: “The State encourages all activities of environmental protection, development and use of new energy and renewable energy.” Accordingly, the law stipulates organizations and individuals that record achievements in environmental protection activities, detect and promptly report signs of environmental incidents, overcome environmental incidents and environmental degradation, to prevent acts of destroying the environment, shall be commended. Participants in environmental protection, remedying environmental incidents, environmental pollution, environmental degradation and combating acts of violating the legislation on environmental protection but suffering damage to property and health or their lives shall be compensated in accordance with law.

Sixth, the law deals with disputes related to the protection of the environment. The environment plays a particularly important role in the human life, the organism and the development of the nation as well as the whole of humanity. Consequently, environmental protection is the duty of every individual, organization as well as every nation and all of humanity.

Therefore, effective management of the environment to ensure sustainable development can not be lacking in legal instruments. Since then, sustainable development has become one of the fundamental principles of environmental law. In Vietnam, the process of industrialization and modernization of the country has brought many great achievements but it poses no small challenge to the environment and sustainable development. Especially now, when the environment of our country is degraded rapidly, environmental protection becomes a task, a constitutional obligation. In environmental protection, the great role of law is undeniable.

### *3.2 The Status of Environmental Protection and Management for Sustainable Development Through Legal Instruments in Vietnam*

#### 3.2.1 Evaluate the Legal Basis for Environmental Management in Vietnam

It can be said that in terms of the institution, the work of building and perfecting the legal system on environmental protection has been paid much attention by the Party and the State. The number of dozens of Laws, Ordinances, hundreds of Decrees, Decisions, Directives of the Prime Minister, documents of the Ministries and agencies concerned quite comprehensive measures and fields of environmental protection. This is a clear proof of that.

Environmental legislation has a high legal force, which is strong enough to regulate relations that arise in the field of environmental protection. In the system of legal documents on environmental protection, in addition to the central law — Law on Environmental Protection 2014, there are many documents at the level of Law, Ordinance on the protection of each environmental element. Among them, the Law on Forest Protection and Development 2004, the Law on Water Resources 2012, the Law on Minerals of 2010, the Law of Fisheries 2003, the Law of the Sea, the Land Law 2013 ... These are the legal bases. It is important to mobilize the participation of all sectors, levels and the entire population to participate in the cause of environmental protection.

The legal system for environmental protection in Vietnam is relatively comprehensive. In particular, the content and mode of state management of environmental activities have been identified. Including regulations on rights and obligations, organization and operation of state management agencies in environmental protection. Legal documents regulating these relationships constitute a system of documents regulating the establishment, organization and operation of the system of environmental protection institutions. The system of environmental protection agencies is established at both central and

local levels and is integrated into many relevant agencies. In addition, the law also regulates the reward and handling of violations of environmental protection law.

Environmental law has ensured openness and transparency. Environmental protection activities will be difficult to achieve the desired effect if there is no mechanism to mobilize broad participation of people in environmental protection activities. One of the measures to create the premise for people to participate in environmental protection activities is the publicization of information on environmental protection activities for people, news agencies and press conditions. To supervise the observance of environmental law by state agencies, organizations and individuals.

In general, environmental legislation is still inadequate and limited to the requirements of sustainable development: lack of consistency and consistency, perspectives on sustainability. However, the law on environmental protection in Vietnam is built on a consistent and solid political basis, with links between specialized legal documents that provide the legal basis for management agencies. the state, all individuals and organizations, in general, carry out the activities of environmental protection.

#### 3.2.2 Practical application of the Law in Environmental Protection Management in Vietnam Today

In the past time, with the socio-economic development, the issue of sustainable development and environmental protection has always been the Party and State's priority to direct and organize the implementation. Along with the efforts of all levels, sectors and people in implementing the Party's guidelines, the State's policies on environmental protection and environmental protection in our country in recent years. There have been many positive changes contributing significantly to improving the quality of life and the socio-economic development of the country.

However, in general, environmental protection is not commensurate with the increasing level of environmental pollution and the negative impacts on the environment of the development process. Many natural resources are exhausted and used inefficiently. The natural environment in many places is seriously damaged, polluted and degraded to an alarming level. It can be said that, along with the rapid development of the economy, our country is indeed facing many challenges of sustainable development, in which the most fundamental challenge is how to harmonize Socio-economic development with environmental protection.

Firstly, activities to handle law violations and environmental crimes

When it comes to dealing with environmental law violations we first mention the activities of sanctioning administrative violations. Many acts of violating the administrative law in the field of management and protection of natural resources and environment have been detected, promptly prevented and severely dealt with, the results of violation handling expressed through some data as follows:

2013: issued sanctioning decisions for 1,875 individuals and organizations violating the amount of 41 billion 632 million. Of which, the units under the Ministry of Natural Resources and Environment will sanction 178 organizations with a total fine of VND11.645 billion [4].

2014: issuing sanctioning decisions for 1,751 individuals and organizations violating the amount of 140 billion 990 million. In which units under the Ministry of Natural Resources and Environment sanctioned 247 organizations with a total fine of VND42 billion and 201 million [4].

In the first six months of 2015: Units under the Ministry of Natural Resources and Environment (Ministry Inspector, General Department of Land Administration, Vietnam Environment Administration, General Department of Geology and Minerals of

Vietnam) sanction 229 organizations with a total fine of 23 billion 987 million [5].

In addition, the Party's and State's guidelines on strengthening the work of preventing and combating environmental crimes and violations, the people's police force at all levels, the environmental crime prevention and fighting police have carried out synchronously the professional measures and intensified propaganda to raise the sense of observance of the environmental law. Environmental crime prevention and control have detected, investigated and discovered over 7,200 cases of environmental law violations, transferred 200 investigating bodies to prosecute, sanctioned administrative violations and collected arrears. The environmental fee is over 200 billion VND.

In addition to the advantages gained, the difficulties in preventing and fighting against environmental crimes and violations of the People's Police force have also been encountered:

The detection and handling of law violations and environmental crimes are not yet exhaustive. Cause of the method, the tricks of this kind of crime is more sophisticated, there is the deal with the authorities. Another difficulty in the investigation and handling of violations is that there are many offenses involving foreign factors, in some cases when dealing with the factors of diplomacy.

The handling of violations of environmental law has not been uniform, uniform and not really serious, caused by the viewpoint of handling between localities, some ministries and branches are not uniform. In many places due to economic development priority should call for investment spread and licensed business massively, regardless of the assessment and assessment of the impact of the project on the environment, especially the project in key areas or when dealing with state economic groups and enterprises.

The system of legal documents, though amended and supplemented, is still lacking and incomprehensible, unclear, sanctions are not strong enough to deter, there

are still many holes for the object. The newly created Environmental Police Force, despite many efforts, has limited experience.

Second, environmental dispute. Environmental disputes are a form of social conflict involving management, use of resources and environmental protection. Any environmental conflicts arise from the issue of rights, the appearance of opposing parties, and the ability to resolve them. The nature of environmental disputes in Vietnam is widespread, causing great damage to many. However, the authorities have not resolved to thoroughly solve the environmental problem but stop at the settlement of security and order.

At present, environmental disputes in localities throughout the country are mainly resolved by administrative orders. When environmental disputes occur, the people's committee of the commune or ward is the first to receive the complaint. However, with their capacity and authority, the CPC is often unable to handle the higher level, usually the Provincial People's Committee, even the Government. Therefore, the treatment process lasts, sometimes takes 2-3 years is not resolved thoroughly. As the case goes on, it slows down the people's urge to increase and the risk of conflict harms the property and health of people as well as businesses. The main cause of this situation is that the cases are dealt with bureaucratic, hierarchical and time-consuming administrative procedures without a negotiable, conciliatory procedure (out of court), with the full participation of stakeholders. In addition, there is a lack of technical tools in determining damages and compensation levels such as standards and technical regulations on pollution; Guiding the determination of damage caused by environmental pollution.

Thirdly, on the inspection, examination and coordination of the inspection of the enforcement of the law on environmental protection. Over the past years, the inspection and examination activities have been identified by the Ministry of Natural Resources and Environment as one of the key tasks of state

management along with the improvement of the system of legal documents on finance, raw materials and environment. In the area of environmental protection, the annual inspection and examination are of great concern to the leaders of the Ministry and the leaders of the General Department of Environment for a deep and comprehensive implementation and good results. Thereby, raising the awareness of the business community and people in environmental protection. However, the inspection and examination activities are overlapped between the environmental police force and the environmental management agencies at all levels, leading to troubles for enterprises; Inspection activities are lack of initiative, flexibility ...

Thus, the process of development and integration has helped the country's economy and society to develop and people's life improved. In addition, the process of development and integration also poses new challenges for environmental pollution for the sustainable development of the economy of the country. In order to achieve sustainable development goals in the future, we need to improve the state management activities first to have more solutions to use the legal instruments in the management more and more effective.

### *3.3 Some Solutions to Improve Environmental Protection for Sustainable Development Through Legal Instruments in Vietnam*

In order to effectively use legal tools in managing the environment in Vietnam, we need to implement the following measures:

To concentrate on renewing, supplementing and perfecting policies and law on environmental protection and intensifying the inspection and supervision of the implementation.

To carry out a comprehensive review of the system of policies and laws in the socio-economic fields, to supplement and perfect them in the direction of formulating a coordinated and synchronous policy environment to promote society. The society is



harmonious with nature, friendly with the environment, green growth and sustainable development.

To carry out a comprehensive review of the system of policies and laws on environmental protection, supplement and complete in a synchronous manner in line with the policy on economic restructuring, transformation of the growth model, synchronous infrastructure, institutional improvement and human resource development.

To review, amend and supplement the Law on Environmental Protection and relevant laws in the direction of clearly defining principles and policies of the State, contents, tools, mechanisms, technical regulations and criteria. assessment, responsibility for environmental protection in accordance with the context of climate change, policy of economic restructuring, transformation of growth model. Study and develop the environmental law in the direction of unifying the protection of environmental components and responding to climate change. To study the development of the Law on Minimization, Recycling and Reuse of Waste; Clean Air Law; Law on Restoration and Improvement of Environmental Quality, Natural Ecosystems; Developing the legal system, processes, standards and guidelines for the zoning of degraded functions.

To step up the inspection, examination and handling of law violations, the fight against environmental crimes and the enforcement of policies and law on environmental protection.

To intensify the close and effective cooperation with the environmental police forces in the fight against crimes and violations of the environmental protection law. To coordinate with the Ministry of Justice, the Supreme People's Court and the Supreme People's Procuracy in guiding the implementation of the regulations on environmental crimes in the Penal Code in order to quickly put these regulations into practice. .

Promote the socialization of environmental protection activities; To adopt policies to promote the participation and promotion of the role of

socio-political and professional organizations.

Continue to improve the environmental law in the direction of sustainable development. Towards sustainable development, the issue is not only to harmonize environmental legislation but also economic, cultural and social legislation. This system requires co-ordination. in line with the common goal of ensuring better and better human rights, including the right to live in a healthy environment. In addition to improving the law, special attention should be paid to the ability to implement this issue in practice.

Assure the right to live in a healthy environment. The rule of law is that the state protects human rights by law, including the right to live in a healthy environment. But now we do not have a clear, complete and consistent understanding of the right to live in a healthy environment.

Strengthening the implementation of environmental law. This is perhaps the most important issue that needs to be addressed in improving the current environmental law. Practical implementation of the law on environmental protection shows that there are too many inadequacies, effective protection of environmental resources is low.

Improve law in the context of regional and international integration today. Improving the environmental law should pay attention to international cooperation related to this issue. Because international cooperation helps Vietnam to have many advantages to protect and develop the environment, such as; In addition, in the context of Vietnam's integration into ASEAN, this year has formed the ASEAN Common Community, with three pillars economic, political and security. In that sense, the improvement of the environmental law in Vietnam will have to be in line with international and regional treaties. Besides, it is necessary to strictly handle violations of environmental laws by organizations and individuals. In the context of building and perfecting the rule-of-law state in Viet Nam, improving the environmental law also needs to pay attention to addressing the responsibilities of state

management entities.

#### 4. Conclusion

The environment is an important factor in ensuring the sustainable development of a country; Environmental degradation has had a negative impact on the community's quality of life and human health. In Vietnam, with the development of economy and society, more and more acts of violation of laws, conflicts and disputes on the environment require appropriate legal mechanisms to deal with protection of rights, legitimate interests of individuals, agencies and organizations concerned. Environmental management by effective legal instruments will address these shortcomings and contribute to sustainable socio-economic development.

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