

Environmental Law
in
the Thai Supreme Court
Green Bench

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ORGANIZATION CHART OF COURTS OF JUSTICE

The Supreme Court

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graph TD; A[The Supreme Court] --> B[The Court of Appeal]; A --> C[The Courts of Appeal Regions 1-9]; B --> D[The Courts of First Instance and Specialized Courts in Bangkok]; B --> E[The Courts of First Instance and Specialized Courts in Provinces]; C --> D; C --> E;
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The Court of Appeal

The Courts of Appeal Regions 1-9

**The Courts of First Instance and
Specialized Courts in Bangkok**

**The Courts of First Instance and
Specialized Courts in Provinces**

STRUCTURE OF ENVIRONMENTAL LAW

Public Law

- Constitution
- Frameworks legislation for environmental protection
- Sectoral legislation
- Administrative law

Private Law

- Civil and Commercial Code
- Provisions on civil liability in laws dealing with specific Issue of environment
- Penal Code
- Penal provisions in laws dealing with specific issue of environment

ESTABLISHMENT OF GREEN BENCH IN COURTS OF JUSTICE

Supreme Court

- Internal Division
- (2004)

- Official Set Up
- (2005)

Courts of Appeals

- Internal Division in
Central, Region 2 and
Region 5
- (2004)

- Official Set Up in all
Courts of Appeals
- (2006)

JURISDICTION OF THE GREEN BENCH

13- Natural Resources Laws

1. Wildlife Conservation and Protection Act ,
2. National Park Act ,
3. Mineral Act ,
4. Fishery Act ,
5. National Reserved Forest Act ,
6. Forestry Act ,
7. Navigation in Thai Waters Act,
8. Petroleum Act,
9. Enhancement and Conservation of Energy Act,
10. Earth Excavation and Landfill Act,
11. Royal Irrigation Act,
12. Ground Water Act,
13. Bangkok Canal Conservation Act,

11- Pollution Laws

1. Enhancement and Conservation of National Environmental Quality Act
2. Public Health Act ,
3. Hazardous Substances Act ,
4. Cleanliness and Orderliness of the Country Act ,
5. Munitions of War Control Act ,
6. Atomic Energy for peace Act,
7. Industrial Estate of Thailand Act,
8. Factory Act,
9. Gasoline Control Act,
10. Land Allocation Control Act,
11. Announcement of the Revolution Party of liquid Propane Gas Control

ENVIRONMENTAL LAW CASES HANDLED BY THE GREEN BENCH

Civil Law Cases

- Compensation for environmental damage or personal injury
- Toxic tort
- Natural destruction
- Air, Noise , Vibration pollution

Criminal Law Cases

- Accusation of violating laws protecting natural resource and environment including penal code
- Encroachment
- Illegal logging, mining, fishing and trafficking or trading of protected wildlife

EXISTING LEGAL TOOLS TO CIVIL AND CRIMINAL ENVIRONMENTAL CASES

Civil Procedure Code

Criminal Procedure Code

- Proceedings in environmental case both civil and criminal start and carry on in the same manner as other ordinary case
- No special procedure
- Not suitable and cause dissatisfaction
- Special nature of the case differs from general case
- Need new special procedural rules

PARTIES TO THE ACTION

Individual affecting from environmental damaging act

**NGOs being a juristic person with an interest
in the environment**

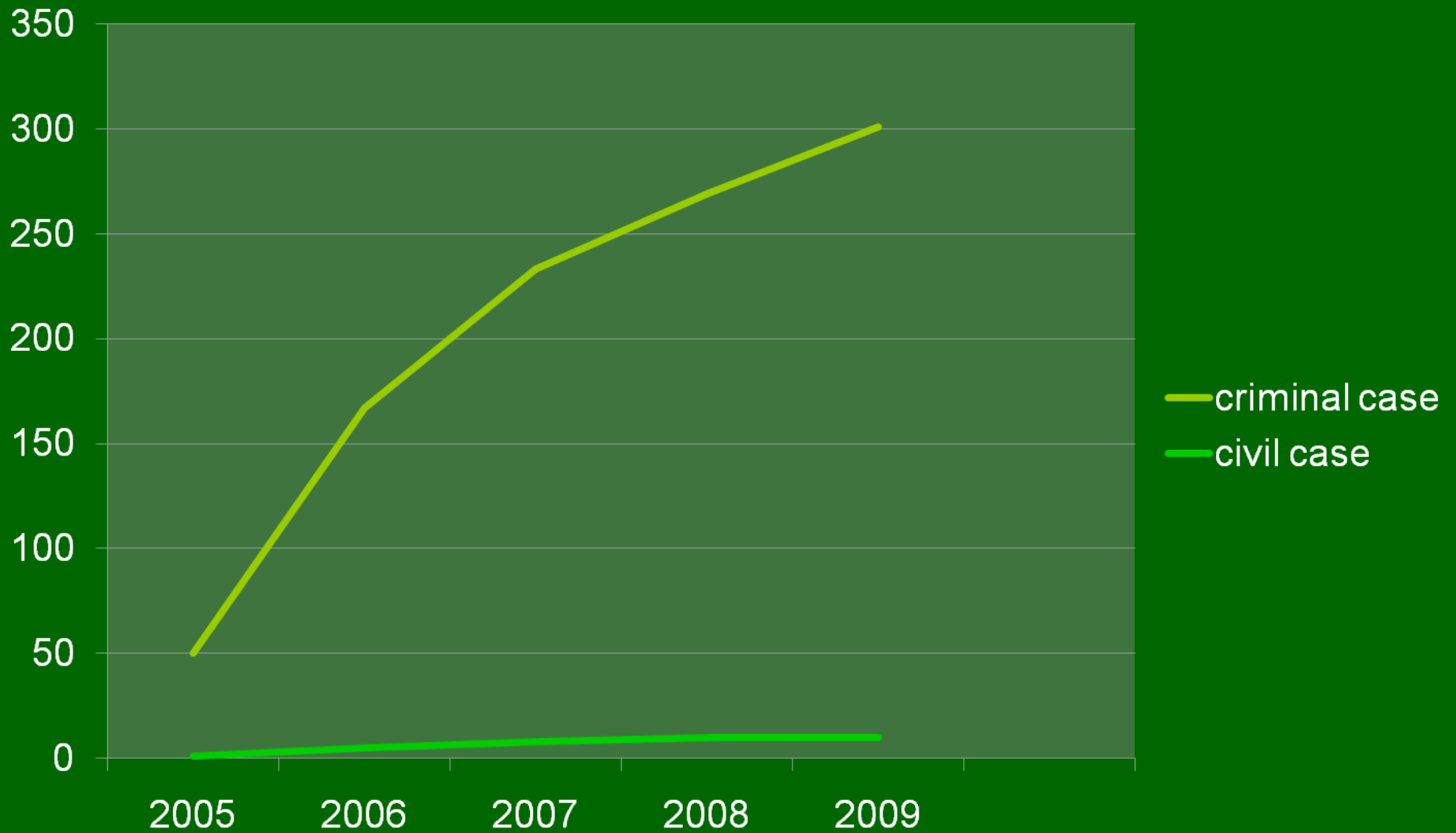
Government or local government authorities

HOW ENVIRONMENTAL LAW SHAPED BY THE GREEN BENCH

- **Civil environmental law**
- **Legal standards of Civil and Commercial Code**
- **To protect private party's environment against various emissions**

- **Criminal environmental law**
- **To impose severe sentences**
- **Severe more than formerly**
- **To stress the importance of environmental values**
- **To suppress or deter environmental crime**

THE STATISTICAL FIGURES OF ENVIRONMENTAL LAW CASES



EARLY PRECEDENTS IN CIVIL AND CRIMINAL ENVIRONMENTAL CASES

- **Water pollution case :**
- **Plaintiff has duty to present evidence**
- **Relax the standard of proof, and**
- **Shift the burden to the defendant**

- **Encroachment of Natural Park case :**
- **Take environmental concerns into consideration**
- **Look into the spirit of law related to NR**
- **Find the underlying goal of law for managing the park in a sustainable way**

EARLY PRECEDENTS IN CIVIL AND CRIMINAL ENVIRONMENTAL CAES

- These 2 case studies are procedural technicalities cases
- Which show the Coj 's effort and need to fulfill the judicial role in promoting Sustainable development
- By applying just existing and applicable procedures to cases in order to enforce the substantive environmental rights and provide environmental justice as of each case demands.
- As the substantive environmental rights are only as good as the procedures available to enforce them.
- And the effective enforcement of the substantive environmental law depends on a properly functional procedure law.
- So we also need special procedural law for special environmental case in the near future

THANK YOU FOR YOUR KIND ATTENTION

By The Thai Green Bench