With the review of the environmental crime provisions section in the German Criminal Code (GCC) in 1994, the German parliament has introduced a provision to protect the soil: § 324a GCC. The importance of the introduction of such an environmental crime provision has been emphasized in German environmental scholarship for quite a while, because the soil is not, like water and air, directly protected by criminal law. The protection of the soil has up until now only been indirect through other environmental crime provisions.

However, the new environmental crime provision to protect the soil directly has raised several theoretical and practical concerns. The main concern on which this study focuses is whether the definition of the provision will prove to be effective enough to adequately protect the soil. Before the author concentrates on the main concern of this study, a few important and often used terms are closely defined. The author approaches the main concern of the study from the ecological-antropocentric perspective in which the environmental values such as clean water, clean air and clean soil are considered to be individual environmental values without which mankind cannot exist. Therefore, the soil in §324a GCC is in this study considered to be an individual environmental value in its function for the existence of mankind.

Then several questions, which are directly or indirectly related to the main concern of the study, are thoroughly examined. Chapter 1 of the study explores the fact that §324a GCC restricts the potential harmful conduct to 'bring in, on or into (eintragen, eindringen) leave (lassen) and set free (freisetzen)', which might interfere with the original goal to protect the soil. Hence, due to this restriction the provision only contains a part of the possible conduct that can be potentially dangerous to the soil. In order to determine whether this restriction will prove to be problematic, chapter 1 examines the total impact on the soil caused by society in general in relation to the possible endangerment caused by pollution through hazardous substances. After a thorough analysis of the total impact on the soil by general use, the author concludes that the main ecological consequences are dehydration, erosion and mechanical harm, like harm caused by directly or indirectly bringing hazardous substances on or into the soil. Although the author realizes that there are several arguments against this kind of comparison, he distinguishes a few different tendencies. The soil in condensed areas is mainly threatened by dehydration. The soil in forests and other natural areas is primarily threatened by hazardous substances that are directly or indirectly brought into the soil. The

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soil in agricultural areas is threatened equally by condensation, erosion and hazardous substances that a brought into the soil. This leads the author to conclude that the endangerment caused by indirectly bringing hazardous substances into the soil is more serious, than the endangerment caused by directly bringing hazardous substances into the soil. Application to §324a GCC indicates that the definition of the offence to bring in, on or into (einleiten and eindringen lassen) is too limited and covers only a small fragment of the combined spectre of human behaviour that could damage the soil or the quality of the soil. This leads the author to conclude that the offence of §324a GCC cannot guarantee sufficient and comprehensive protection of the soil, due to the limited definition.

Another issue that is discussed is that the offence of §324a GCC is also an example of the command and control approach through permits and licenses. Pollution of the soil becomes a criminal offence only when the pollution is the actual result of a ‘violation of administrative regulatory duties’ (Verletzung verwaltungsrechtlicher Pflichten). Due to this relationship with the administrative regulatory scheme, the definition of the offence becomes dependant of administrative rules and regulations for the protection of the soil. The German Criminal Code contains a separate section, §330d nr. 4 GCC, that defines administrative regulatory duties (verwaltungsrechtlicher Pflichten) as:

a. a statutory regulation;
b. a judgement;
c. a legal permit/license;
d. a legal order; and
e. a public treaty that imposes a duty that could have been imposed by permit and serves to protect the environment, especially humans, animal and plant species, water, soil and air.

Due to the fact that the administrative regulatory duties (verwaltungsrechtlicher Pflichten) are part of the definition of the offense of §324a GCC, the administrative regulatory scheme for the protection of the soil has become part of the offense too. That’s why Chapter 2 offers an overview of the administrative regulatory scheme and the duties that exist based upon that regulatory scheme. By doing so the definition of the administrative regulatory duties (verwaltungsrechtlicher Pflichten) in §330d nr. 4 GCC is narrowed down to the administrative regulatory duties with regard to soil pollution. A detailed overview of the administrative regulatory scheme with regard to the protection of the soil in given in a supplement. This direct relationship between §324a GCC and the administrative regulatory scheme for the protection of the soil makes the offense highly complex and non-transparent, which has a negative impact on the effectiveness of the offense.

The definition of §324a GCC is characterized by several legally indeterminate terms. In order to invoke the offense there has to be a change or alteration to the detriment of the soil that can cause damage to people, animal and plant species and other goods of considerable importance, or a water or a change or alteration to the detriment of the soil that can cause damage to the soil directly. Because most of the terms used are derived from other environmental offenses in the German Criminal Code, like f.i. §324 GCC (criminal waterpollution), Chapter 3 examines whether the insights and concepts developed in other areas of environmental crimes can be equally applicable with §324a GCC. The first part of the chapter focuses on the criminal result of the offense itself: the alteration to the detriment of the soil. Because this terminology is directly derived from §324 GCC (criminal waterpollution), Ger-