
IS "POLLUTER PAYS" SUFFICIENT? RETHINKING ENVIRONMENTAL LIABILITY FOR CORPORATIONS

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ABSTRACT

In ensuring that firms bear costs resulting from damage done to the community and environment, the "Polluter Pays" concept has always been at the core of environmental responsibility frameworks. Even though it makes sense in theory, its practical application often lacks the ability to address the intricate nature of current environmental problems. Given the reality of international supply chains, global warming, and transboundary pollution, this essay examines critically how adequate the "Polluter Pays" concept is in ensuring that corporations are accountable. The paper argues that although the concept is important, it falls short in addressing the problem of systematic issues such as corporate accountability evasion and underestimation of ecological damage. It is also worth noting that, in the context of the discussion, there exists the tendency for companies to externalize risks, transferring their operations to nations with less stringent rules or through exploiting any legal gaps or due to inadequate enforcement mechanisms. In addition, the principle often overlooks the core concepts of ecological rehabilitation, social equity, and intergenerational equity in pursuit of a singular emphasis on compensation in financial terms. As a complement or substitute to the theory, other models such as "Extended Producer Responsibility," "Corporate Environmental Stewardship," and "Shared but Differentiated Responsibility" are reviewed. Finally, this paper advocates the need to review the concept of environmental liability considering ethics, laws, and economics. Perhaps the most suitable approach to solve this dilemma could be provided by the mixed approach combining the "polluter pays" principle with increased regulation, restorative justice, and sustainability. It is hoped that societies may eventually move towards a future where environmental protection becomes an essential obligation inherent in corporate governance rather than just another cost of doing business.

Keywords- *Polluter Pay, Environmental Liability, International Supply Chain, Restorative Justice.*

I. INTRODUCTION

PPP means "Polluter Pays Principle". To protect both life forms and the environment, it is required. In the interests of future generations, it is also required to conserve natural resources. Sustainability of development hinges on the PPP principle. Everyone should be aware of environmental rules. It is not only a constitutional mandate but a principle as well. The main objective of such an approach is the prevention of environmental degradation. It means that it is necessary to make a pollutant pay for causing harm to the environment. Before going further with discussing the relevance of PPP, it is vital to clarify its meaning. Let me do that for you.

II. POLLUTER PAYS PRINCIPLE

Another extensively studied approach, which makes the polluters pay, is the "Polluter Pays" principle. If any form of pollution threatens humans' health or causes any harm to the environment, the polluters have to cover up all the expenses related to the cleaning-up process. The Bhopal Gas Leak case, also called *Union Carbide Corporation vs. Union of India*,¹ was in 1989. Even today, cancer, stunted growth, and dizziness are caused by those chemicals that got into ground water years ago. Now imagine the immediate consequences of that disaster. Thousands of people died in just a few days due to the toxic methyl isocyanate that had drifted through the sleepless city.

III. THE SHIFT IN 2026

The National Green Tribunal (NGT) is a tribunal whose primary focus is cases concerning the environment. The year 2010 witnessed the enforcement of this Act. It has been enacted based on Article 21 of the Indian Constitution and includes all relevant data about the right to live in a pollution-free environment. It monitors environmental issues and ensures that the polluters are made accountable. Under NGF (2026), this would involve the creation of an environmental protection fund whose money would be raised through compensation from people flouting on environmental laws and court and tribunal decisions and directives from various statutory agencies. These rules lay out exact procedures on how these payments should be deposited to the fund, which include compensation for the environment and other charges regarding damage

¹ Union Carbide Corporation v. Union of India, AIR 1990 SC 273.

caused by the environment. Procedures on the management of the fund will be provided by the central government.

IV. LEGAL CONSEQUENCES OF THIS PRINCIPLE

Definition under law: According to this doctrine, which has been set forth in the important case of *M.C. Mehta vs. Union of India (oleum gas leak case)*², if an enterprise runs a venture, which may be termed as hazardous and inherently dangerous, then it is liable for all damage caused by such ventures. Due to the stringent nature of this type of legal claim, it proves very effective in climate lawsuits. The application of absolute liability can bring attention to corporate environmental misconduct even if the legal suit fails. This can affect government policies and even lead to a shift in behavior within corporations towards sustainability.

V. BREAKING ENVIRONMENTAL LAWS

Legal Standing: This involves holding firms accountable for any infringement of environment-related laws, which include the Environmental Protection Act, 1986.

- Application in Climate Litigation: This can be illustrated through cases where businesses face lawsuits due to non-compliance with environment-related laws, such as the case of Tamil Nadu Pollution Control Board v. Sterlite Industries. Such legal standing is relevant when discussing practices like emissions and illegal waste disposal that led to climate change.
- Effectiveness: Since the laws have set standards that need to be followed, this legal standing is very effective. It is a practical approach towards preserving the environment because it ensures that the firm operates according to those standards.

VI. INTERNATIONAL LAW OF THE ENVIRONMENT

Theoretical Framework: It relies on India's compliance with international conventions or treaties regarding the environment.

Application in Legal Cases: This is useful where there is cross-border pollution or an international treaty for the environment is involved, but it is mostly theoretical within the context of India.

² M.C. Mehta v. Union of India, AIR 1987 SC 965: (1987) 1 SCC 395

Influence and Constraints: Because of the difficulty in applying international norms in a domestic court case, this could face some challenges despite its influence.

VII. PROBLEM AND DIFFICULTIES

Supply Chain Transparency: Companies are increasingly responsible for the pollution resulting from their supply chains, particularly Scope 3 emissions and PFAS. "Forever Chemicals": By 2026, new EPA/EU regulations will oblige companies to classify PFAS, creating a significant threat for companies.

Greenwashing and Accountability: Environmental performance guarantees will become mandatory in 2026, replacing investor and non-governmental organization reliance on voluntary disclosure practices.

Transnational Enforcement: The United Nations Binding Treaty on Business and Human Rights is the primary issue being advocated for in 2026. Multinational corporations can often evade punishment due to inadequate domestic legislation.

VIII. CONCLUSION

Despite this, the "polluter pays principle" is not required by law. However, adhering to the principle requires more work than enforcing it. The court's rulings on this concept have been unambiguous, precise, and unquestionable. It became clear that industries are social entities with legally recognized duties and obligations to the settings in which they operate. In the twenty-first century, the old motto of progress and biodiversity preservation cannot coexist together. However, it is no longer acceptable to exploit nature in the name of limited development. Principles such as "polluter pays," "precautionary principle," and "principles of sustainable development" form part of them. Ideally, everyone should personify sustainable development principles. Tree planting has been made an integral part of various colleges and university celebrations such as Environment Day and Independence Day. Therefore, it is reasonable to embrace such measures as a way forward towards achieving sustainable development. Sustainability provides ideal standards for balanced coexistence between nature and people throughout the world. This generation ought to embrace all such practices.