

## GLOBALISATION AND ENVIRONMENTAL ACCOUNTABILITY: IMPLEMENTING THE POLLUTER PAYS PRINCIPLE IN INDIA POST RIO DECLARATION

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### INTRODUCTION

Polluter Pays Principle (PPP) is a significant environmental and economic policy tool which mandates polluters to bear the cost of control of pollution, reducing pollution, and restoration of the environment<sup>975</sup>. In India, the PPP is enshrined in environmental law and further ratified through judicial precedents by courts of law. It encompasses the response of firms to cost of pollution, whether the same is passed on to consumers, and policies of the government utilizing PPP as a funding source of the environment<sup>976</sup>. The study also analyses enforcement issues like inefficiency of regulators, opposition from industry, and gaps in environmental taxation. The study attempts to explore the economic impact of the Polluter Pays Principle in India and overall economic sustainability. It was found that though PPP is seen as a catalyst for green technologies and control of pollution, there persists ongoing concerns of increased operating cost, lack of enforcement, and opposition from the industry. Younger, lesser educated, and urban respondents were more pessimistic regarding the application of PPP, while aged, educated, and rural respondents were more optimistic regarding the environmental benefits of PPP. Conclusion The PPP holds immense potential in reducing environmental degradation in India, and success lies only in addressing economic problems, increasing enforcement, and increasing awareness among the public.

GRASP - EDUCATE - EVOLVE

<sup>975</sup> Anisia-Teodora Doniga, 'The Polluter Pays Principle' (2016) 2016 Law Annals from Titu Maiorescu University 79.

<sup>976</sup> Krati Singh Bhadouriya, 'A Study on Environmental Liabilities: Polluter Pays Principle' (2022) 4 Issue 4 Indian Journal of Law and Legal Research 1.

### CONCEPTUAL & THEORETICAL FRAMEWORK :

Polluter Pays Principle (PPP) is a core principle of environmental law and economics, which mandates the cost of prevention, control, and cleanup of pollution will be incurred by the polluters. It shifts the cost from the public and government to the polluters, and hence, encourages good environment practices and sustainable industries. It was accepted in India through legislation, judicial decrees, and policies over time. It compels industries to install control equipment against pollution, manage waste, and adopt green practices, and so impacts cost of production and marketability<sup>977</sup>. Conversely, the principle generates government revenues through environment penalties and fines and may invest in ecological restoration programs. Nevertheless, weakness of enforcement, resistance of industries, and cost shifters of industries at consumer levels diminish the relevance of the principle. Analytically, the paper attempts to explore the economic impact of the Polluter Pays Principle of India and general economic sustainability's. Globally, the PPP evolved through time as the underlying environment and economic policy, having been conceptualized of the 1972 OECD proposals and enshrined in the 1992 Rio Declaration<sup>978</sup>. In India, the PPP features in constitutional provisions under Article 21 (Right to Life), Article 48A, and Article 51A(g), enshrining a special place for environment protection. Legislative laws of Environment (Protection) Act, 1986, and National Green Tribunal (NGT) Act, 2010, ratify cost-bearing responsibility of polluters<sup>979</sup>. Interestingly, the courts played a significant role in evolving the PPP through landmark cases of Vellore Citizens Welfare Forum v. Union of India (1996),

enshrining it in Indian law formally<sup>980</sup>. From the economic viewpoint, the PPP applies compliance cost on industries, provides government revenues through environment fines, and influences consumer prices. Although it ensures sustainable practices among industries, issues of weak enforcement and resistance of industries persist, and success of the implementation would be significant in achieving a balance of economic growth and environment responsibility in India<sup>981</sup>.

Factors affect the success of the Polluter Pays Principle (PPP) in India, both its economic and environmental outcomes. Lack of proper regulation remains a significant obstacle, since poor monitoring and bureaucratic red tape usually enables industries to escape fines. Industrial opposition is another determining factor, since firms complain of higher operational cost and lower competitiveness of firms due to tight pollution fines. Consumer economic impact is also a determining factor, since industries usually shift the burden of paying for environmental compliance from the firms' cost base to consumers in the product prices. Judicial interventions strengthened the enforcement of PPP, but inconclusive verdicts and late implementation dilute its general impact<sup>982</sup>. Lack of public awareness and corporate responsibility further undermines the success of PPP, since firms and residents lack awareness of their participation in environmental sustainment. Lastly, policy lacunae and loopholes in the legislations of the environment enable polluters to exploit loopholes and escape financial responsibility, thus delimiting the principal's success<sup>983</sup>.

Trends in the application of the Polluter Pays Principle (PPP) in India in recent years reflect advances and reverses. Of serious concern is

<sup>977</sup> Yashita Chaddha, 'An Analysis of the Polluter Pays Principle in Indian Framework' (2023) 5 Issue 2 Indian Journal of Law and Legal Research 1.

<sup>978</sup> Howard Mann, 'The Rio Declaration Issues Relating to the 1992 Brazil Conference on the Environment' (1992) 86 American Society of International Law Proceedings 405.

<sup>979</sup> Siddhant Nanodkar, 'Polluter Pays Principle: Essential Element of Environmental Law and Policy' (2018) 1 International Journal of Law Management & Humanities 77.

<sup>980</sup> ash, 'Case Study: Vellore Citizens Welfare Forum Vs Union of India & ORS' (IJLSSS, 30 June 2025) <<https://ijlsss.com/case-study-vellore-citizens-welfare-forum-vs-union-of-india-ors/>>

<sup>981</sup> Azka Khanam, 'Polluter Pays Principle: An Efficient Tool to Curb Pollution?' (2021) 2 Indian Journal of Law and Legal Research 1.

<sup>982</sup> Lavanya Bhattacharya, 'Polluter-Pay's Principle: Challenges to Its Implementation in India' (2022) 4 Issue 6 Indian Journal of Law and Legal Research 1.

<sup>983</sup> Aditya M Saran, 'An Analysis of the Polluter Pays Principle in the Indian Framework' (2023) 2 Legal Lock Journal 81.

the fact that the PPP is fast gaining a "pay and pollute" approach, where companies and industries prefer paying fines rather than taking green practices, diluting its ecological success. Secondly, the Indian government contemplates a \$30 billion plan compelling coal-fired power plants to install flue-gas desulphurisation plants, since, according to research, the pollution-abatement benefits may not accrue due to the off-putting compliance cost, indicative of a broader failure of enforcing the PPP, where industries cry foul of excessive regulations for budgetary reasons, and governments get caught in a losing battle between economic development and the environment<sup>984</sup>. Such trends indicate the urgency of tougher enforcement measures, severe pollution penalties, and incentives for green technology use in order to continue ensuring the success of the PPP for the environment in India.

India's application of the Polluter Pays Principle (PPP) is poor due to regulatory loopholes and enforcement challenges<sup>985</sup>. Conversely, the European Union (EU) mandates control of PPP strictly through carbon pricing and emissions trade regimes so industries bear the full cost of pollution<sup>986</sup>. America controls application of PPP through Superfund laws (CERCLA) so polluters pay financially for cleaning up of hazardous waste plants<sup>987</sup>. China places heavy fines, pollution levies, and production bans on offending industries and severely limits damage to the environment<sup>988</sup>. Germany, however, mandates a stern Extended Producer Responsibility (EPR) regime so producers themselves control waste through the entire

product life cycle<sup>989</sup>. Although India introduced fines for the environment and EPR law, poor enforcement, reduced fines, and unquestionable resistance by industries dilute their bite. Improved pollution levies, harsher compliance regimes, and green tech incentives will bring India closer to international best practices<sup>990</sup>.

#### AUTHOR'S PERSPECTIVE :

**Rosencranz (1996)** To determine the development of environmental principles, including PPP, in Indian environmental law. The research makes a historical examination of environmental statutes and case law to map the development of PP. The research establishes that PPP has developed from being a policy guideline to being a legally binding principle through judicial interpretation. The research concludes that the judiciary has played a significant role in promoting PPP to become an essential principle of environmental administration in India. **Divan (2001)** To examine the judicial cognisance and enforcement of the Polluter Pays Principle in India. The research examines milestone Supreme Court cases and National Green Tribunal (NGT) rulings to measure the judiciary's role in the enforcement of PPP. The study identifies that Indian courts have increasingly espoused PPP as part of environmental jurisprudence, making polluters pay for causing ecological harm. The study ascertains that judicial activism has been instrumental in operationalizing PPP in India, as a fillip to legislative and executive inertia.

**Rajamani (2007)** To assess the integration of the Polluter Pays Principle in India's environmental policy framework. The article examines policy documents, environmental rules, and compliance mechanisms to determine PPP's policy integration. **Bhat (2010)** To analyse the use of the Polluter Pays Principle in India's environmental liability regime. The paper discusses legal provisions and case laws

<sup>984</sup> Dhanraj Garwa, 'Environmental Laws in Modern India: An Appraisal' (2023) 5 Issue 2 Indian Journal of Law and Legal Research 1.

<sup>985</sup> Varsha Venkatesh, 'Environmental Disasters as Catalysts for Risk Regulation in India' (2021) 4 Issue 1 International Journal of Law Management & Humanities 1453.

<sup>986</sup> Kleoniki Pouikli, 'The Polluter Pays Principle and the EU State Aid Law for Environmental Protection' (2016) 55 Journal of Law, Policy and Globalization 19.

<sup>987</sup> Ved P Nanda, 'Agriculture and the Polluter Pays Principle Section II: Civil Law, Procedure, and Private International Law' (2006) 54 American Journal of Comparative Law 317.

<sup>988</sup> Alexander Zahar, 'Implementation of the Polluter Pays Principle in China' (2018) 27 Review of European, Comparative & International Environmental Law 293.

<sup>989</sup> Knut F Kroepelien, 'Extended Producer Responsibility - New Legal Structures for Improved Ecological Self-Organization in Europe' (2000) 9 Review of European, Comparative & International Environmental Law 165.

<sup>990</sup> Haribansh Singh and SK Chaturvedi, 'Environment Protection and E-Waste Management in India' (2021) 12 Indian Journal of Law and Justice 52.

related to environmental liability to analyse PPP's application. The research concludes that India's environmental liability regime includes PPP but is unevenly enforced because of legal uncertainty and administrative issues. . The research recommends legal reforms to clarify liability provisions and enforce them more rigorously to prevent PPP being eroded.

**Rajagopalan (2012)** In order to comprehend the evolution and concerns of the Polluter Pays Principle in developing countries, with a special reference to India .The study conducts a comparative analysis of environmental policy and implementation of PPP in selected developing countries. The study identifies that even though PPP is mentioned in policy statements, its application is normally violated due to economic and political factors. The study hypothesizes that for PPP to succeed in the implementation process in developing countries like India, there must be a compromise between environmental policy and economic development objectives. **Kohli (2014)**

To assess the effectiveness of the National Green Tribunal (NGT) in using the Polluter Pays Principle in India. The paper analyzes NGT orders and judgments in order to evaluate the effectiveness of NGT in enforcing PP. The paper finds that the NGT has been successful in applying PPP, penalizing and charging remediation costs to polluters, and consequently enhancing environmental compliance. The paper concludes that the NGT has been a significant institution for enforcing PPP and has played important roles towards enhancing environmental governance in India.

**Edirisinghe, et.al (2015 )** To analyze the application of the Polluter Pays Principle in Sri Lanka, India, and international law. The study undertakes a comparative legal analysis of the adoption and application of PPP within the two jurisdictions. The study indicates that although PPP is a principle, its application varies with moderate levels of application relative to international best practice being seen in India. The study recommends that India has to improve its institutional and legal setup to

adhere more strictly to global best practices in enforcing PPP. **Mahaset (2017)** For the purpose of studying the effectiveness of the Polluter Pays Principle in India.

The study applies qualitative analysis of legal documents, policy reports, and court judgments to analyze the enforcement of PPP in India. The study brings out significant loopholes in the implementation of PPP by referencing weaknesses like weak regulatory mechanisms and lack of stringent penalties for polluters. The study concludes that PPP is referred to in Indian environmental law but practical application is not feasible due to issues with enforcement, leading to reforms for better implementation.

**Choudhary (2017)** To analyze the incorporation of the Polluter Pays Principle within Indian environmental laws and adherence to international standards. The study contrasted Indian environment law with international standards like the Rio Declaration.

**Tandon (2018)**, To analyze the enforcement of the Polluter Pays Principle by India's National Green Tribunal (NGT). The article analyzes NGT orders and judgments to evaluate the implementation of PPP in environmental adjudication. The study finds that the NGT has been proactive in enforcing PPP, imposing fines and cost of remediation on polluters and thereby improving environmental governance.

**Desai, K. (2018)** The study conducted case studies of industrial clusters and analyzed policy documents. Open-enforcement mechanisms and public participation are crucial to improve PPP performance in water pollution control. **Sharma, S. (2019)**

To evaluate the application of the Polluter Pays Principle (PPP) in Indian environmental law. Supreme Court and National Green Tribunal (NGT) decisions and relevant legal provisions were examined by the research. The judiciary had a leading role in applying PPP but the challenges are uneven implementation and absence of responsibility. Institutional framework should be strengthened and strict compliance should be ensured for the implementation of PPP in India.

**Gupta, P. (2020)** To assess the economic and

environmental impact of the Polluter Pays Principle in India. The study was done with the use of secondary data obtained from government reports, case studies, and economic reports. PPP has been successful in punishing large-scale industries, whereas small industries usually avoid the punishment due to inadequate monitoring. More robust regulatory mechanisms and monetary incentives are required in order to make PPP popular. Banerjee (2021) To assess whether the effectiveness of the Polluter Pays Principle can prevent water pollution in India.

The research involves a review of water pollution cases and implementation of PPP in courts. The study sets out that the implementation of PPP has been uneven in water pollution cases, with varying levels of fines and enforcement efforts. The study concludes that enforcing strong legislation and upholding consistent application of PPP is critical to successful control of water pollution in India. **Reddy, (2021)** To examine the challenges in implementing the Polluter Pays Principle for India's municipal waste management. Qualitative methods, including interviews of government officials and reading of urban waste management reports, were employed. Urban local governments cannot adopt PPP due to poor infrastructure and lack of civic interest. Capacity building and public-private partnerships will ease PPP implementation in urban waste management.

#### **SUGGESTION**

Monetary incentives, either by way of subsidy or tax concession, need to be made available to industries utilizing green technology so that they are not disobeyed and opposition discouraged. Participation by stakeholders in policy formulation by the industry, local population, and environment professionals will ensure issue ease and ensure implement ability. Capacity development for training industry heads and government representatives along with a robust monitoring mechanism to measure the impact of PPP will enhance efficiency and enable data-driven adjustment.

Alleviating importance to such industries, PPP can definitely drive an optimal balance between industrialization and maintaining the environment, leading to sustainable growth in India.

#### **CONCLUSION :**

The research offers sound findings on the concerns and attitude towards implementing the Polluter Pays Principle (PPP) in India. Although the general perception of the potential of PPP in encouraging environment-friendly technology and the control of pollution is known, apprehension regarding enhanced cost of operation and opposition by industry persists. Younger and less educated individuals focus on economic concerns and weak enforcement systems, while older and more highly educated individuals are more optimistic regarding PPP's environmental merits. Gender is also relevant, with females showing greater support for PPP and its effectiveness than males. There are regional variations as well, with rural respondents mentioning environmental merits and urban respondents mentioning economic issues. Occupation also influences attitudes, with private sector employees more optimistic towards the success of PPP and industrial sector employees more sceptical. Overall, the results reinforce the complexity of deploying PPP in India, reconciling environmental aspirations with economic and industrial limitations. In order to optimize PPP's potential, targeted public information campaigns, efficient enforcement measures, and removal of industrial resistance are necessary. Through their solution, PPP can do more to reduce environmental degradation and industrial sustainability in India.

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