CORPORATE ACCOUNTABILITY FOR ENVIRONMENTAL DAMAGE: REAFFIRMING THE 'POLLUTER PAYS' PRINCIPLE

by

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ABSTRACT

The rapid expansion of industrial and corporate activity has intensified the pressure on natural ecosystems, raising urgent questions about the legal accountability of corporations for environmental degradation. The 'Polluter Pays' Principle (PPP) serves as a cornerstone of environmental jurisprudence, mandating that those responsible for pollution must bear the cost of prevention, control, and remediation. This paper explores the evolving dimensions of corporate accountability for environmental harm through the lens of the PPP. It examines statutory frameworks, judicial interpretations, and policy developments in India that have sought to operationalize this doctrine. The study further situates India's approach within a comparative context, analysing global best practices that strengthen corporate environmental responsibility. It argues that reaffirming the PPP through enhanced corporate due diligence, ESG-based compliance, and judicial enforcement is vital for realizing the constitutional promise of environmental protection and sustainable development.

Keywords: Environmental Law, Corporate Accountability, Polluter Pays Principle, Environmental Governance, Sustainable Development.

I. Introduction

Environmental degradation has become one of the most critical global challenges confronting contemporary society. The growing industrial and corporate footprint has not only accelerated economic progress but also resulted in severe ecological harm from air and water pollution to deforestation and biodiversity loss[1]. Within this context, the concept of corporate accountability for environmental damage has acquired profound significance. It reflects the necessity of holding corporate entities legally and financially responsible for their contribution to environmental harm[2]. The 'Polluter Pays' Principle (PPP), first articulated by the Organisation for Economic Co-operation and Development (OECD) in 1972, has emerged as a fundamental tenet of both international and domestic environmental law. It operates on a simple yet powerful premise: those who cause pollution must bear the costs associated with mitigating and remedying its adverse effects[3]. In India, this principle has been firmly embedded in environmental jurisprudence through a series of landmark judgments such as Indian Council for Enviro-Legal Action v. Union of India (1996) and Vellore Citizens' Welfare Forum v. Union of India (1996), where the Supreme Court recognized PPP as an essential feature of the nation's environmental policy framework[4]. Despite its formal recognition, the effective enforcement of the PPP in corporate contexts remains inconsistent. Weak regulatory oversight, gaps in environmental compliance and inadequate punitive mechanisms have allowed corporations to externalize environmental costs onto the public and the ecosystem. This has necessitated a renewed focus on reaffirming and strengthening the PPP to ensure meaningful corporate responsibility. This paper seeks to critically analyse the principle's relevance in contemporary environmental governance. It examines the statutory and judicial mechanisms that underpin corporate environmental liability in India, compares international best practices, and proposes legal and institutional reforms. By reaffirming the PPP, the study argues for a transition from mere compliance-based environmental management to a holistic framework of corporate sustainability, accountability, and environmental justice.

2. Theoretical Framework of the 'Polluter Pays' Principle

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[1] Parvejur Rahman & Sagufta Mehnaz, International Journal for Multidisciplinary Research (IJFMR), SSRN JOURNAL (2024), https://www.ssrn.com/abstract=5054029.

[2] Mohammed Rahman, CLIMATE CHANGE AND ENVIRONMENTAL DEGRADATION: A SERIOUS THREAT TO GLOBAL SECURITY, 8 EUROPEAN JOURNAL OF SOCIAL SCIENCES STUDIES (2023).

[3] Diva Rai, Polluter Pays Principle in India, IPLEADERS (Dec. 19, 2024), https://blog.ipleaders.in/the-concept-of-polluter-pays-and-its-potential-in-india/.

[4] Ganesh V Radhakrishnan, Polluter Pays Principle: Legal Interpretations and Enforcement Challenges (2025).

The 'Polluter Pays' Principle (PPP) emerged as a fundamental concept in environmental law, establishing that those who cause pollution must bear the costs of managing and rectifying the resulting environmental damage. First articulated by the Organisation for Economic Co-operation and Development (OECD) in 1972, the principle was designed to internalize environmental costs within the economic activities of polluters rather than allowing society to bear them. It reflects both an economic and ethical rationale ensuring that environmental degradation is neither free nor externalized to the public[5]. In international law, the PPP has been embedded in key instruments such as the Rio Declaration on Environment and Development (1992) and the Stockholm Declaration (1972), affirming state responsibility to implement policies ensuring that polluters bear appropriate costs. Within the Indian context, the principle has evolved through judicial interpretation rather than statutory codification[6]. The Supreme Court in Indian Council for Enviro-Legal Action v. Union of India (1996) and Vellore Citizens' Welfare Forum v. Union of India (1996) recognized PPP as part of the law of the land, linking it with the constitutional mandates under Articles 21, 47, 48A, and 51A(g)[7]. The theoretical framework thus positions PPP as a bridge between environmental economics and legal accountability. It promotes sustainable industrial practices by deterring pollution and ensuring compensatory justice. Reaffirming the PPP within corporate law discourse enhances not only environmental governance but also reinforces the broader goal of achieving ecological balance and intergenerational equity[8].

3. Corporate Accountability and Environmental Damage

Corporate activity is a major driver of environmental change, often resulting in air and water pollution, deforestation, and resource depletion. While industrialization contributes to economic growth, it simultaneously imposes heavy ecological costs that are frequently borne by society rather than the corporations responsible[9]. The concept of corporate accountability in environmental law seeks to correct this imbalance by ensuring that companies are legally and

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5 (PDF) Polluter Pays Principle: Legal Interpretations and Enforcement Challenges, https://www.researchgate.net/publication/394771875 (last visited Nov. 13, 2025).

6 (PDF) A CRITICAL ANALYSIS OF THE POLLUTER PAYS PRINCIPLE IN INTERNATIONAL CLIMATE CHANGE LAW, RESEARCHGATE, https://www.researchgate.net/publication/355978656_A_CRITICAL_ANALYSIS_OF_THE_POLLUTER_PAYS_PRINCIPLE_IN_INTERNATIONAL_CLIMATE_CHANGE_LAW (last visited Nov. 14, 2025).

7 Precious Ibanitoru, A CRITICAL ANALYSIS OF THE POLLUTER PAYS PRINCIPLE IN INTERNATIONAL CLIMATE CHANGE LAW (Nov. 7, 2021).

8 Malgosia Fitzmaurice, Principles of International Environmental Law: It Is Not How They Are Named That Matters but How They Function (Sept. 29, 2025), https://papers.ssrn.com/abstract=5544321.

9 INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2007: MITIGATION OF CLIMATE CHANGE (2007), http://ebooks.cambridge.org/ref/id/CBO9780511546013.

financially answerable for the harm they cause to the environment[10]. In India, corporate liability for environmental damage is primarily governed by statutes such as the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981. These laws empower regulatory bodies like the Central and State Pollution Control Boards to impose penalties and direct remedial actions. However, statutory enforcement alone has often proven insufficient, making judicial intervention critical. Through a series of landmark judgments, Indian courts have expanded the scope of corporate accountability by interpreting environmental obligations in the light of constitutional rights and duties[11]. The Supreme Court's decisions in Indian Council for Enviro-Legal Action v. Union of India (1996) and Sterlite Industries (India) Ltd. v. Union of India (2013) exemplify this shift toward a stricter liability regime for environmental harm. The judiciary has consistently held that corporate entities must bear the cost of pollution control and remediation, reinforcing the essence of the 'Polluter Pays' Principle. These decisions not only impose monetary liability but also underline the moral and ethical duty of corporations to adopt sustainable practices[12].

In recent years, the integration of Environmental, Social, and Governance (ESG) norms into corporate frameworks has broadened the meaning of accountability beyond legal compliance. ESG standards encourage transparency, due diligence, and proactive risk management, aligning corporate conduct with sustainability goals. Nonetheless, significant challenges persist, including weak enforcement mechanisms, limited awareness, and inadequate penalties for violations[13]. Strengthening corporate accountability therefore requires a multi-dimensional approach that combines statutory reform, judicial vigilance, and stakeholder participation. Reaffirming the 'Polluter Pays' Principle in this context ensures that corporate growth aligns with environmental preservation, achieving a just balance between profit and planetary responsibility[14].

4. Reaffirming the Principle in Modern Environmental Governance

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[10] Haitao Yu, Tima Bansal & Diane-Laure Arjaliès, International Business Is Contributing to Environmental Crises, Forthcoming JOURNAL OF INTERNATIONAL BUSINESS STUDIES (2022).

[11] Santhosh Prabhu & Sharika Rai, Risk to Responsibility: Corporate Environmental Liability in India, 4 INT. J. LAW JUSTICE JURISPRUDENCE 291 (2024).

[12] IJSR_FOR_PROOF.Cdr, https://ijsr.in/upload/662229050Chapter_34.pdf (last visited Nov. 13, 2025).

[13] Full Article: The Effect of Environmental, Social, and Governance (ESG) on Firm Performance: The Moderating Role of Country Regulatory Quality and Government Effectiveness in ASEAN, https://www.tandfonline.com/doi/full/10.1080/23311975.2024.2371071#d1e166 (last visited Nov. 14, 2025).

[14] Victoria Agbakwuru et al., The Impact of Environmental, Social, and Governance (ESG) Reporting on Corporate Financial Performance, 5 INTERNATIONAL JOURNAL OF RESEARCH PUBLICATION AND REVIEWS 3629 (2024).

In the contemporary era of climate crisis and rapid industrialization, reaffirming the 'Polluter Pays' Principle (PPP) has become a crucial imperative for environmental governance. The principle not only defines responsibility but also embodies the preventive and remedial dimensions of environmental protection. As global environmental challenges intensify, the effective implementation of PPP must evolve beyond punitive liability to encompass proactive corporate sustainability and regulatory reform[15]. Modern governance frameworks increasingly emphasize the integration of environmental accountability into corporate and public decision-making processes. The Indian legal system, influenced by international norms such as the Rio Declaration (1992), has begun to incorporate sustainability and accountability into environmental regulation. The National Green Tribunal (NGT), established under the National Green Tribunal Act, 2010, has played a vital role in operationalizing the PPP by directing polluters to compensate for environmental restoration[16]. Its judgments, including M.C. Mehta v. Union of India and Goa Foundation v. Sesa Sterlite Ltd., have reinforced the idea that environmental harm must be addressed through both restitution and deterrence[17]. However, reaffirming the PPP in the modern context requires moving from reactive measures to preventive governance. Corporate actors must internalize environmental costs through mechanisms such as environmental insurance, pollution taxes, and ESG-based reporting. Similarly, policy convergence among regulatory bodies such as the Ministry of Environment, Forest and Climate Change (MoEFCC), the Securities and Exchange Board of India (SEBI), and the Ministry of Corporate Affairs (MCA) can ensure coherent enforcement of environmental obligations[18]. The global transition toward green finance, carbon neutrality, and sustainable development offers India an opportunity to strengthen its environmental accountability framework[19]. Embedding the PPP within corporate governance codes, sustainability reporting standards, and investment policies would ensure that environmental costs are recognized as intrinsic to business operations. Thus, reaffirming the 'Polluter Pays' Principle is not merely a matter of enforcing liability it represents a shift toward responsible governance, corporate ethics, and long-term ecological resilience[20].

5. Conclusion and Recommendations

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[15] (PDF) The Cost of Climate Justice: Applying the Principle of Common but Differentiated Responsibilities and Respective Capabilities, https://www.researchgate.net/publication/391992162 (last visited Nov. 13, 2025).
[16] 69007d60215f0_IJAR-54528-reviewersReportTwo.Pdf, https://www.journalijar.com/files_for_reviewer/IJAR-54528/69007d60215f0_IJAR-54528-reviewersReportTwo.pdf (last visited Nov. 13, 2025).
[17] IELRC.ORG - The Goa Foundation V. M/s Sesa Sterlite Ltd., 2018.
[18] Keerthana Gedela, REVISITING THE POLLUTER PAYS PRINCIPLE:
[19] Mannat Jaspal & Neha Khanna, A ROADMAP FOR GREEN AND TRANSITION FINANCE IN INDIA.
[20] Mizan R. Khan, Polluter-Pays-Principle: The Cardinal Instrument for Addressing Climate Change, 4 LAWS 638 (2015).

The 'Polluter Pays' Principle stands as a cornerstone of modern environmental jurisprudence, embodying both justice and sustainability. Its underlying philosophy that those responsible for pollution must bear the cost of remediation links economic growth with environmental accountability. Over the decades, Indian jurisprudence has played a transformative role in shaping this doctrine, elevating it from a policy guideline to a binding legal norm under constitutional and statutory frameworks. Judicial pronouncements have reaffirmed that corporate entities, as major contributors to environmental harm, cannot externalize ecological costs to the public. Yet, despite its strong normative foundation, practical implementation remains uneven. Weak institutional enforcement, inadequate deterrence, and fragmented regulatory oversight often dilute the principle's effectiveness. In many instances, corporate compensation serves as a reactive measure rather than a preventive one, undermining the doctrine's broader intent. As industries expand into new sectors energy, mining, and manufacturing the challenge of balancing economic progress with environmental protection grows increasingly complex. Reaffirming the 'Polluter Pays' Principle within this evolving landscape requires more than financial liability; it demands a paradigm shift in how corporations perceive their role in environmental stewardship. Embedding this principle into governance structures, investment strategies, and compliance mechanisms ensures that sustainability becomes intrinsic to business ethics. Thus, the reaffirmation of PPP is not merely a legal necessity but a moral and economic imperative for achieving long-term ecological balance and intergenerational equity.

To effectively reaffirm and operationalize the 'Polluter Pays' Principle within India's environmental governance framework, a holistic approach that combines legal reform, institutional empowerment, and corporate responsibility is essential. Although the principle has been firmly established through judicial precedents, its absence as an explicit statutory mandate continues to create inconsistencies in enforcement. Incorporating the principle directly into environmental legislation such as the Environment (Protection) Act, 1986 would ensure uniform liability and provide clarity in holding polluters, particularly corporations, accountable for ecological damage. Strengthening the capacity and autonomy of regulatory institutions remains a crucial step toward effective enforcement. The Central and State Pollution Control Boards must be equipped with adequate resources, technical expertise, and financial independence to conduct continuous monitoring and ensure compliance. A coordinated approach among the Ministry of Environment, Forest and Climate Change, the Securities and Exchange Board of India, and the Ministry of Corporate Affairs would facilitate the integration of environmental accountability into corporate regulation and financial disclosure systems.

Corporate governance mechanisms should embed environmental responsibility within their operational and ethical frameworks. Expanding SEBI's environmental, social, and governance (ESG) disclosure norms to include pollution control data, impact assessments, and restoration measures would encourage transparency and responsible corporate conduct. Judicial and quasi-judicial bodies such as the National Green Tribunal should continue to play an active role in enforcing corporate liability through periodic environmental audits, transparent compensation mechanisms, and stringent penalties for non-compliance.

Economic tools like green taxation, environmental insurance, and restoration funds can help internalize environmental costs and transform corporate behaviour from reactive compliance to proactive sustainability. Further, public participation in environmental decision-making and access to corporate environmental performance data can enhance transparency and accountability at the grassroots level.

Ultimately, reaffirming the 'Polluter Pays' Principle demands not only stronger laws but also a shift in corporate ethics and governance philosophy. A concerted effort by the State, the judiciary, and industry is necessary to ensure that economic development proceeds in harmony with environmental protection, thereby achieving the broader goals of sustainability and intergenerational justice.