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From Bichhri to Vellore: Tracing the Judicial Trajectory of the Polluter Pays Principle in India (1996–2025)

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ABSTRACT

The Polluter Pays Principle (PPP) has emerged as a cornerstone of environmental jurisprudence in India, holding polluters financially and legally accountable for the harm they cause to the environment. This paper traces the judicial evolution of PPP from its foundational articulation in Indian Council for Enviro-Legal Action v. Union of India (1996), popularly known as the Bichhri case, to its reaffirmation and refinement in the recent Supreme Court judgment in Vellore District Environment Monitoring Committee v. Union of India (2025). The study investigates how the Supreme Court has progressively transformed PPP from a doctrinal import into a practical tool for environmental accountability and remediation. The principles' theoretical foundation, along with their integration into India's legal system, have been analysed in this paper, drawing from key cases the National Green Tribunal decided. The paper discusses the impact of the principle of PPP on the balance between economic development and environmental protection, taking into account the immediate impacts of climate change, pollution, and biodiversity loss, which India is facing. Thus, the paper aims to fully explain how the PPP has shaped and continues to influence the governance of the environment in India.

Keywords: Pollution, Polluter Pays, Doctrinal foundations, National Green Tribunal, Supreme Court.

I. INTRODUCTION

Industrialization has been the backbone of economic development, driving technological progress, job creation, and national prosperity. However, this rapid growth has come at a significant cost – *The Triple Planet Crisis*. The triple planetary crisis refers to the three main interlinked issues that humanity currently faces: climate change, pollution, and biodiversity loss.³ As industries expand, so does their ecological footprint, often leaving behind irreparable environmental harm. The balance between economic development and environmental

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³ *What is the Triple Planetary Crisis?*, UNFCCC (Apr. 13, 2022), <https://unfccc.int/news/what-is-the-triple-planetary-crisis>.

sustainability has, therefore, become one of the most pressing legal and policy challenges of the 21st century. At the heart of this challenge lies the Polluter Pays Principle (PPP)- a foundational environmental doctrine that mandates those responsible for pollution to bear the cost of remediation.

The PPP attempts to correct an imbalance by hindering environment exploitation. It does so by making sure that polluters must contribute to the prevention, mitigation, and repair of any relevant damage inflicted on nature. The OECD put the principle into global focus for the first time back in 1972, alongside developing it into one of the pillars of Middle Economics (the integral economics of pollution and resources)—also making it part of the foundational laws of Environmental Economy internationally. In conjunction with judicial activism, legislations, and administrative authorities, India provides a framework to enforce the principle of “pollution pays.” Through significant judicial decisions, under judicial activism, and institutional bodies like the National Green Tribunal (NGT), the principle has been gradually infused into the jurisprudential framework of environment law in India, evolving from mere construct to practical device of legal responsibility.

II. DOCTRINAL FOUNDATION OF PPP

The PPP has legal, economic, and ethical underpinnings.

A. Economic Rationale

The economic rationale of the principle is embedded in the concept of internalizing Environmental externalities. It asserts that the cost of pollution is to be borne by the polluter.⁴ By internalizing these external costs, the PPP ensures that polluters face the financial consequences of their actions, aligning economic incentives with environmental protection. This internalization is often achieved through Pigouvian taxes, which impose levies on polluting activities to discourage environmental harm and generate revenue for remediation. According to which environmental taxes can be the most efficient policy to reduce environmental degradation.⁵ For example, carbon taxes, as implemented in countries like Sweden, have proven effective in reducing emissions while funding environmental programs. Another key economic justification is ‘**Fiscal efficiency**’. According to this, if environmental costs are not recovered from the polluters, then the government is forced to allocate private funds for remediation, which will impose a burden on the public. In the beginning, PPP was

⁴ *What is the polluter pays principle?*, The Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science (July 18, 2022), <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-the-polluter-pays-principle/>.

⁵ Alina Georgiana Manta et al., *Does the Implementation of a Pigouvian Tax Be Considered an Effective Approach to Address Climate Change Mitigation?*, 80 Economic Analysis and Policy, 1719-1731 (2020).

included as an economic instrument in the non-binding instrument of the OECD “The 1972 Recommendation on Guiding Principles Concerning International Economic Aspects of Environmental Policies”⁶, which is recognized as the first international document that regulates the PPP.⁷ According to it, the polluter should bear the expense of carrying out measures to ensure that the environment is an acceptable state.

B. Ethical Underpinnings

Ethically, the PPP is grounded in the principle of corrective justice, which holds the idea that those who cause harm to others or the environment must repair that harm. It also rejects the notion that the cost of pollution such as health issues, loss of biodiversity, etc. to be borne by the innocent. Instead, it promotes fairness by ensuring that the polluter, as the wrongdoer, internalizes the cost of their actions. This aligns with the broader ethical principle of corrective justice, which holds that those who inflict harm must make amends. It affirms that environmental stewardship is not merely a legal or economic obligation but also a moral imperative.

C. Legal Foundations

The legal foundations of the PPP are rooted in both international as well as in domestic environmental laws. At the international level, it was first articulated by the Organization for Economic Co-operation and Development in the 1970s as an economic principle. In 1972 United Nations Conference on Human Environment was held and the Stockholm Declaration was signed. Principle 22 of the Stockholm Declaration⁸ asks the states to cooperate and develop international law regarding liability and compensation for victims of pollution and other environmental damage. Then finally, in principle was included in Principle 16 of the Rio Declaration 1992⁹. It says, “*National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.*”

In India, the PPP has a constitutional and statutory basis. Environmental jurisprudence is ably supported by the Constitution’s Articles 21¹⁰ (right to life), 47¹¹ (public health), 48A

⁶ OECD, *Recommendation of the Council on Guiding Principles concerning International Economic Aspects of Environmental Policies*, OECD/LEGAL/0102.

⁷ Jose Felix Pinto-Bazurco Ph.D, *How to Enforce the Polluter-Pays Principle*, The International Institute for Sustainable Development (Feb. 8, 2022), <https://www.iisd.org/articles/polluter-pays-principle>.

⁸ Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972).

⁹ Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. I) (Aug. 12, 1992).

¹⁰ India Const. art. 21.

¹²(environmental protection) and 51A(g)¹³ (duty of a citizen to protect the environment). The accompanying statutory peripherals like the Water (Prevention and Control of Pollution) Act (1974)¹⁴, The Air (Prevention and Control of Pollution) Act (1981)¹⁵, and the Environment (Protection) Act (1986)¹⁶ also deepen the PPP within the framework of domestic law. As India is a signatory to various international environmental conventions, the implementation of the PPP not only reinforces domestic environmental accountability but also enhances the country's global credibility and compliance with international environmental standards.

III. INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION V. UNION OF INDIA (ALSO KNOWN AS H-ACID / BICHHRI VILLAGE CASE) : THE JUDICIAL BIRTH OF THE PPP IN INDIA

The PPP was not a part of environmental law until its recognition by the Supreme Court in the *Indian Council for Enviro-Legal Action v. Union of India*¹⁷ (also known as h-acid / Bichhri village case). The case brought into light the misery of a small village Bichhri, in Udaipur, Rajasthan. Many industrial establishments were working there including Hindustan Zinc Limited. In 1987 Hindustan Agro Chemical Limited started producing chemicals like oleum and then 'Silver Chemical' commenced production of H acid. The production of acids produced highly toxic sludge which seeped into the water sources such as well as the streams. It made the water unfit for consumption by humans as well as animals. The soil also became polluted which became unfit for cultivation, further spreading disease and death. The sudden degradation had an echo in parliament too. The villagers revolted and the matter reached court. The PIL was filed in 1989 and the decision was delivered in 1996.

One of the main questions arose in the case was whether and to what extent can the respondents be made responsible for defraying the cost of remedial measures in these proceedings. The court applied the principle of Absolute Liability to the polluting industries and extended it to cover the cost not only of the pollution caused but also the cost of remedial measures to restore the environment. The court referred the decision of the court in the *oleum gas leakage*¹⁸ case and held

"Once the law in Oleum Gas Leak Case is held to be the law applicable, it follows, in

¹¹ India Const. art. 47.

¹² India Const. art. 48A.

¹³ India Const. art. 51A(g).

¹⁴ The Water (Prevention and Control of Pollution) Act, 1974, No.6, Acts of Parliament, 1974 (India).

¹⁵ The Air (Prevention and Control of Pollution) Act, 1981, No.14, Acts of Parliament, 1981 (India).

¹⁶ The Environment (Protection) Act, 1986, No.29, Acts of Parliament, 1986 (India).

¹⁷ Indian Council for Enviro-Legal Action v. Union of India & Ors, (1996) 3 S.C.C. 212 (India).

¹⁸ M.C Mehta v. Union Of India, (1987) 1 S.C.C. 395 (India)

the light of our findings recorded hereinbefore, that Respondents Nos.4 to 8 are absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove the sludge and other pollutants lying in the affected area and also to defray the cost of the remedial measures required to restore the soil and the underground water sources”

The PPP requires that the financial expenses of preventing or repairing pollution-related damage be borne by the entities that create the pollution or produce the pollutants. According to the principle, it is not the government's responsibility to cover the costs associated with either preventing such damage or carrying out remedial measures, because doing so would shift the financial burden of the pollution incident to the taxpayer.¹⁹

IV. VELLORE CITIZEN WELFARE FORUM VS UNION OF INDIA: STRENGTHENING PPP

The next significant decision by the Supreme Court in which the polluter pay principle was reaffirmed is the case of *Vellore Citizens Welfare Forum v. Union of India*.²⁰ In this case, too petition was filed under Article 32²¹ of the constitution by the Vellore Citizens Welfare Forum. The issue was the pollution caused by the unchecked pollution caused by the tannery industry in Tamil Nadu, particularly in and around the city of Vellore. The untreated effluents from these tanneries were being discharged into water bodies, particularly the Palar River, which was a crucial source of drinking water for the local population. This led to severe environmental degradation, contaminating groundwater, soil, and agricultural fields, and posing health risks to the residents of the region.

The court, in this case, noted that ‘the precautionary Principle’ and ‘polluter pay principle’ are essential features of ‘sustainable development’²². S.C found the constitutional basis of these principles in Articles 21, 47, 48A, and 51A(g) of the constitution and the statutory basis under The Water (Prevention and Control of Pollution Act 1974 (the Water Act), The Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment Protection Act 1986 (the Environment Act). The court held that,

“In view of the above mentioned constitutional and statutory provisions we have no

¹⁹ Pratyush Pandey, *Principles of International Environmental Law*, Law Times Journal (Feb. 24, 2020), <https://lawtimesjournal.in/principles-of-international-environmental-law/>.

²⁰ *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India).

²¹ India Const. art. 32.

²² Archana Gadekar, *A critical study on the right to a healthy and wholesome environment A constitutional and human rights perspective* (2006).

hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is an almost accepted proposition of law that the rule of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the Courts of Law.”

This case remains a milestone in Indian environmental jurisprudence, reinforcing the judiciary’s proactive role in environmental protection and ensuring industrial accountability.

The decision of the case continued to be followed by the Indian courts, including the Supreme Court itself, which includes landmark cases such as *M.C. Mehta vs Kamal Nath*²³ In which PPP was applied to compensate for the restoration of the damaged environment. The court held a private enterprise and public official liable for environmental damage caused to the Beas river ecosystem due to illegal construction. This marked a critical shift in PPP from just penal liability to an obligation to restore degraded ecosystems. *In Res.Foun. For Sci. Tech.& Natural Res. ... vs UOI & Anr* ²⁴The Apex court dealt with the illegal import of waste oil and applied both the precautionary and PPP. The court held the polluters liable for the full cost of destruction and clarified that costs under PPP also include expenses for ecological restoration, public health protection and preventive measures.²⁵

In *Bajri Lease Lol Holders Welfare Society vs The State Of Rajasthan*²⁶ on 11 November 2021, the principle was followed by the court in case of sand mining. In this case, Bajri leaseholders' welfare society challenged sub-rule (4) of Rule 5 of the 2017 Rules in the High Court of Rajasthan. The rules were framed as a result of the decision of the court in *Deepak Kumar vs State of Haryana*²⁷. The court while discussing the environmental and social impact of illegal sand mining held that, “Compensation / penalty to be paid by those indulging in illegal sand mining cannot be restricted to the value of illegally-mined minerals. The cost of restoration of the environment as well as the cost of ecological services should be part of the compensation. The “Polluter Pays” principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of

²³ *M.C. Mehta vs Kamal Nath*, (1997) 1 S.C.C. 388 (India).

²⁴ *Research Foundation For Science Technology and Natural Resources Policy vs UOI & Anr*, A.I.R. 2005 S.C. 878 (India).

²⁵ Shreya Dubey & Kaushiki, *Polluter Pays principle revisited in the context of recent SC judgments*, Neeti Niyaman <https://neetiniyaman.com/polluter-pays-principle/>.

²⁶ *Bajri Lease Lol Holders Welfare Society vs The State Of Rajasthan*, (2021) S.C.C. ONLINE S.C. 1043 (India).

²⁷ *Deepak Kumar v. State of Haryana*, (2012) 4 S.C.C. 629 (India).

pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.”

V. THE NGT ERA: INSTITUTIONALIZING THE PPP

In 2010 the National Green Tribunal Act was passed and the PPP became a part of the Act along with precautionary principle and sustainable development.²⁸ The NGT has played a pivotal role in applying the PPP in both punitive and preemptive contexts, imposing fines, environmental compensation, and taxes to deter pollution and fund restoration.

The principle has been applied by the NGT in its landmark orders such as *Forward Foundation vs State of Karnataka*²⁹, in this case the NGT imposed environmental compensation on industries polluting the Bellandur Lake in Bengaluru, emphasizing the PPP's role in funding ecosystem restoration. The Tribunal ordered polluters to pay for cleanup and preventive measures, reinforcing the principle's practical applicability. On similar grounds in case of *Manoj Mishra vs. Union of India and Ors*³⁰ Addressing Yamuna River pollution, the NGT ordered polluters to pay for cleanup and restoration, applying the PPP in urban environmental challenges. The Tribunal emphasized the need for continuous monitoring and enforcement to ensure compliance. Further in case of *Centre for Environment Protection, Research & Development vs. State of M.P. and Ors*³¹, the NGT addressed industrial pollution in Madhya Pradesh, imposing environmental compensation and ordering restoration measures under the PPP. In case of *Ramdas Janardan Koli vs. Ministry of Environment and Forests*³² NGT has applied the PPP as a punitive measure as well as a pre-emptive measure such as in the form of tax, charges etc.³³

In the *Society for preservation of Kasauli and its environs vs Bird's view Resort*³⁴, NGT observed that ,

“The liability of the polluter is absolute for the harm done to the environment, which extends not only to compensate the victims of pollution but also to meet the cost of restoring the

²⁸ S.20, The National Green Tribunal Act, 2010, No.19, Acts of Parliament, 2010 (India).

²⁹ *Forward Foundation v. State of Karnataka*, (2015) 12 S.C.C. 1 (India).

³⁰ *Manoj Mishra v. Union of India*, (2017) 11 S.C.C. 312 (India).

³¹ *Centre for Environment Protection, Research & Development v. State of M.P.*, (2013) 1 S.C.C. 745 (India)

³² *Ramdas Janardan Koli v. Sec'y, Ministry of Env't & Forests*, 2015 S.C.C. OnLine NGT 4 (India).

³³ Usha Tandon, *Green Justice and the Application of Polluter- Pays Principle: A Study of India's National Green Tribunal*, 13 OIDA International Journal of Sustainable Development, 35-46 (2020).

³⁴ *Soc'y for Pres. of Kasauli & its Environs v. Bird's View Resort*, O.A. No. 69/2017, Nat'l Green Trib. (May 30, 2017) (India).

environment and to remove the sludge and other pollutants. A large number of tourists and vehicles that use the roads and engage in other activities for their enjoyment, pleasure or commercial benefits must pay on the strength of the 'Polluter Pays' principle. It will be entirely uncalled for and unjustified if the taxpayers' money is spent on taking preventive and control measures to protect the environment. One who pollutes must pay.”

Similarly, in *Vardhman Kaushik vs Union of India*³⁵ The National Green Tribunal upheld the PPP by holding those individuals and entities responsible for contributing to air pollution in the National Capital Region, such as through vehicular emissions, unauthorised construction, and waste burning, must bear the cost of the environmental damage they cause. The Tribunal emphasized that the burden of restoring environmental quality should not fall on the state or the public, but on those directly or indirectly responsible for pollution. It directed regulatory authorities to impose fines and take strict action against violators, reinforcing that.

There is no one-size-fits-all interpretation while applying the PPP; courts have applied it in different situations. The NGT has evolved a practice of applying PPP to cases of continuous, incremental and decentralised pollution without engaging with the question of the Violation of rules involved. There are mainly three patterns visible from the above-discussed cases. First, certain activities that are continuing in nature and where there is no identifiable polluter or small group of polluters, the NGT has treated them as 'deemed to be polluting' and applied PPP without ascertaining whether such activities fit within the legal definition of pollution. Many of these activities are probably without any violation of environmental laws, although they may be polluting in fact. Second, there are obvious cases of pollution, such as oil spillage incidents, where damage to the environment has been explicitly recognised. Third, there are cases where the NGT has underlined explicitly that there was no discharge by the respondent company, still PPP was applied on the ground that the respondent company was in violation of environmental law norm³⁶

VI. VELLORE DISTRICT COMMITTEE THE VELLORE DISTRICT ENVIRONMENT MONITORING COMMITTEE CASE (2025): A REAFFIRMATION

In January 2025, the Supreme Court delivered a landmark judgement in this case³⁷. The case deals with the environmental degradation of the Palar River in the Vellore District of Tamil Nadu, mainly due to the tannery industry. While holding the tanneries liable to pay

³⁵ *Vardhman Kaushik vs Union of India*, (2017) S.C.C. ONLINE NGT 1637 (India).

³⁶ Harshita Singhal & Sujith Koonan, *Polluter Pays Principle in India: Assessing Conceptual Boundaries and Implementation Issues*, 7(2) RGNLU Student Research Review 33-50 (2021).

³⁷ *Vellore District Environment Monitoring Committee v. District Collector, Vellore District*, 2025 SCC OnLine SC 207 (India).

compensation to the affected person, the court observed that,

“Polluter Pays Principle extended beyond compensating victims of pollution; it included the cost of reversing environmental degradation, in other words, they are required to undertake all necessary remedial measures to remove pollutants and restore the environment. This principle, along with the Precautionary Principle, has been recognized as part of the law of the land, drawing strength from Article 21 of the Constitution, which guarantees the right to life and personal liberty. It underscores that environmental protection is not merely a regulatory obligation but a constitutional imperative aimed at safeguarding the fundamental rights of individuals and preserving ecological balance.”

VII. CRITICAL ANALYSIS: STRENGTHS, GAPS, AND EVOLVING DIMENSIONS

The judicial evolution of PPP in India reveals both commendable strengths and discernible gaps in environmental governance. The principles so evolved by the Hon'ble Supreme Court are the baseline for further adjudication in this field and adopting a pragmatic approach, the Apex Court examined the adverse impact on environment vis. a vis. economic development. Supreme court and subsequently have played a pivotal role in embedding PPP within the Indian legal Framework. However, PPP is not without its limitations. One of the major concerns is the definitional ambiguities of the term, pollution and polluter.³⁸ The legal definition of Pollution covers only Legal definition of polluter covers only the direct and point source of pollution. However, when an activity involves various stakeholders and participants, determining culpability may become difficult.³⁹

Another major concern is the lack of legislative clarity and a robust enforcement mechanism which raise issues such as the quantum of compensation and implementation of compensation order.

Moreover, PPP if not applied and enforced carefully and with appropriate safeguards, risks giving rise to a distorted interpretation: that of a ‘right to pollute’ for those who can pay. To deal with such a situation, the theory of deeming fiction of pollution is applicable. In this context the decision of the Supreme Court in case of Vellore district case is relevant in which court observed that,

“ When there is a violation in compliance with the environmental laws, be it by

³⁸ Harshita Singhal & Sujith Koonan, *Polluter Pays Principle in India: Assessing Conceptual Boundaries and Implementation Issues*, 7(2) RGNLU Student Research Review 33-50 (2021).

³⁹ Vaishnavi Deshpande, *Polluter Pays Principle: An Evolving Perspective in India*, 5(1) Indian Journal of Legal Review 176-186 (2025).

engaging in activities directly involved in causing pollution or failure to take steps to curb the pollution and restore the environment or violating any terms of licence granted by any State or central authority and acts in a manner detrimental to the environment, the effect of which causes or is likely to cause degradation of the environment, then the deeming fiction of polluting the environment becomes applicable and the polluter is not only liable to payment of compensation but also to restore the environment.”

VIII. CONCLUSION

The PPP has emerged as a powerful judicial and policy tool in India’s environmental governance landscape. From its doctrinal foundations in international law to its incorporation through landmark judgments and the active role of the National Green Tribunal, PPP has evolved into a key mechanism for holding polluters accountable. It has reinforced the idea that environmental harm cannot go uncompensated and must be remedied not by the victims or the state alone, but by those who cause it.

Yet, this evolution is not without challenges. The absence of a clear legislative framework, weak enforcement mechanisms, and the risk of reducing PPP to a mere financial transaction all threaten its transformative potential. To ensure PPP continues to serve the goals of environmental justice and sustainability, there must be a renewed emphasis on scientific assessments, institutional strengthening, and the moral imperative of pollution prevention—rather than pollution compensation alone. As India confronts complex environmental and climate challenges, PPP must be embedded not just in judgments, but in policy, regulation, and public consciousness. Only then can it move from being a reactive principle of liability to a proactive force for environmental stewardship and equitable development.
