

A Study  
On  
**Polluter Pays Principle**

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## INTRODUCTION

There are two sides to every coin. So are the pros and cons of the industrial revolution. On one hand, the Industrial Revolution has improved the lives of people in many ways in the 21st century. On the other hand, unfortunately, the industrial revolution has caused industrial pollution. Technology has developed dramatically and manufactured products have replaced the archaic products. The by-products are the inevitable part of the manufacturing process. Hence, principles such as "precautionary principle" and "polluter pays principle" are constitutional mandates to curb the degradation of environment. Therefore, it's a no brainer for a citizen to be aware of the principles of environment law. In certain cases, the impacts of the industrial disaster are said to be experienced till date.

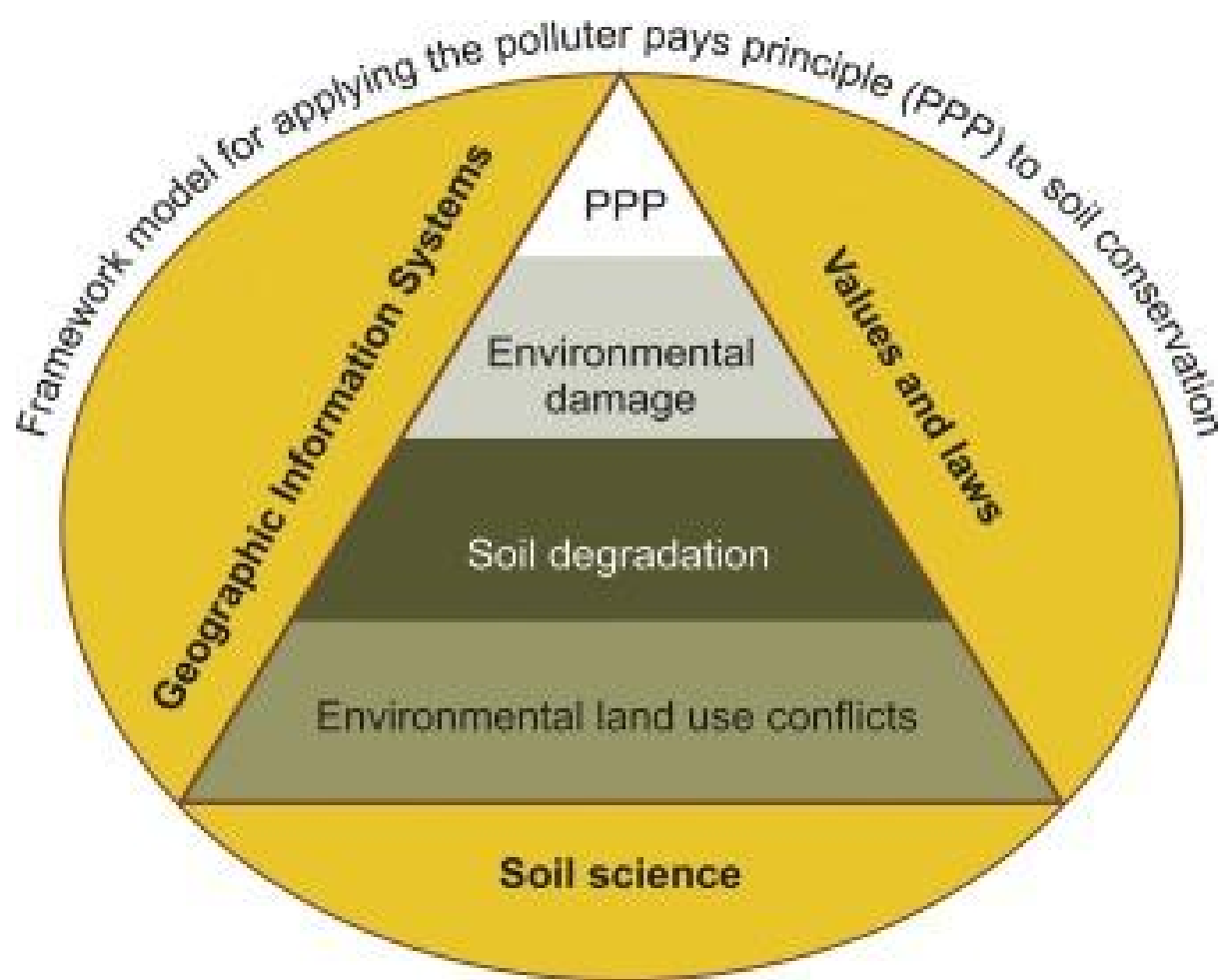
Take for instance, the incident of the Bhopal Gas Leak, the pollutants which seeped into the groundwater years ago still forms the reason for cancer, growth retardation and dizziness. Let alone the immediate impact of the leakage.

The deadly methyl isocyanate which drifted into the sleeping city caused the death of thousands of inhabitants within a few days. Such incidents in the past further necessitate mandating principles for combatting the effects of pollution.

High amounts of pollutants emitted by the vehicle, put forth the question of whether the owner or the manufacturer will be liable for the pollutants emitted. The

### POLLUTER PAYS PRINCIPLE

The 'polluter pay' principle essentially holds the polluter liable for the pollution caused to the environment. So the polluter is liable for every damage caused to the environment. So according to the 'polluter pay principle', the polluter has to not only compensate the victims of pollution but also compensate for the restoration of environmental degradation caused. Under 1972 and 1974 OECD Recommendation (1)(2), the measures to be taken by the polluter for controlling the pollution is decided by public authorities so that the environment is in acceptable state post the industry operation. Therefore,





the polluter bears the cost of health hazard caused to the public as well as the cost of restoration of the environment. In other words, the cost of measures should reflect on the cost of the goods and services, the production and/or consumption of which led to pollution. The cost of the measures should not be accompanied by the subsidies as it would lead to distortion in international trade and investment.

The polluter pays principle is part of a set of broader principles to guide sustainable development worldwide. The 'polluter pay' principle forms a part of the environmental law of India.

### HISTORICAL BACKGROUND

The World Commission on Environment and Degradation in its report, Our Common Future stated that the cost of repairing the environment can be paid by internationalisation of an enterprise. Herein, internationalisation in economic context means that the polluter bears the

costs himself and does not delegate the work to an agent. The report mentioned that the enterprise would be encouraged to invest in taking prevention, restorative and compensatory measure. The 'polluter pay' principle was first introduced by the Organisation of Economic Cooperation and Development (OECD) in 1972.

The report stated that the polluter is responsible for the controlling and prevention of pollution associated with the process of factory. Pollutants were soon recognised by the World Commission on Environment and Development as a form of waste. Hence, dissemination of the pollutants into nature was considered as an inefficiency of industrial production, so the implementation of 'polluter pays principle' was used as a strong economic, administrative and legal tool to restrain the pollution problem.

## FLAWS IN THE POLLUTER PAYS PRINCIPLE

Vehicular emissions are the largest contributor to air pollution. Nearly two-thirds of death in 2015, which counts as much as 385000 deaths, were due emission from the exhaust of diesel engines. The effluents discharged into the water bodies can be treated; the dumping of waste on soil can be minimized by good management. The treatment of polluted air is an unfeasible task. Moreover, when an entire city or an entire nation is affected by air pollution, it is even more challenging. At times, as in cities in northern India, where even the annual rainfall is scarce and the cities are landlocked, steps taken by the government are never enough to combat air pollution.

Air pollution due to the vehicular emission clearly exceeds the air pollution due to industrial emission, yet the main focus of this article is on industrial pollution. As compensation for industrial pollution is primarily emphasized in the 'polluter pays principle', it is the owner of the vehicle



or the manufacturer who is to be punished for the vehicular emission? Unfortunately, there is no clear mention in the 'polluter pay principle' as to who is to be made liable for the vehicular emission.

### LANDMARK JUDGEMENTS

→ Indian Council For Enviro-Legal vs Union of India & Ors.

Fact :- The petitioner, the Indian Council for Enviro-Legal action brought this action to prohibit and remedy the pollution caused by several chemical industrial plants in Bichhri village, Udaipur District, Rajasthan.

→ Vellore Citizens Welfare Forum vs Union of India & Ors.

Fact :- The petition was filed against the water pollution caused due to excessive release of pollutants by the tanneries and other industries in the State of Tamil Nadu into the river Palar.

## → The Taj Trapezium Case

MC Mehta vs Union of India and Ors

Facts :- The petition was filed against the yellowing and decaying of the priceless national monument, the Taj Mahal,

### CONCLUSION

Although there is no statutory mandate on the 'polluter pays principle'. Nevertheless, it takes more effort in complying people to the principle rather than mandating it. The judicial pronouncements on this principle have been clear crisp and undisputed. It was realised that industries are also social units having rights and duties towards their surrounding and community. The old concept of development hand in hand with ecological balance does not hold good in 21st century. Yet ravaging nature in the name of development is no more acceptable. Balanced development is a prerequisite for harmony between nature and us. These steps should be habits of the millenials.