

THE “POLLUTER PAYS” PRINCIPLE IN ENVIRONMENTAL LAW AND ITS SIGNIFICANCE FOR UZBEKISTAN

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Abstract

This article is devoted to examining the necessity of introducing the polluter pays principle into the environmental law system of the Republic of Uzbekistan, as well as highlighting its beneficial and significant aspects. The importance of this principle, which is widely applied in many developed countries, is thoroughly discussed, and its advantages are demonstrated through several practical examples. In order to assess the feasibility of applying this principle in the Republic of Uzbekistan, information is provided on its key advantages and effectiveness. The principle is also analyzed from the perspective of human rights. Particular attention is paid to the effectiveness of this principle in addressing the current environmental situation within the territory of the Republic. The author seeks to discuss the relevance of this issue based on scientific and theoretical foundations and to conduct an in-depth study.

Keywords: Polluter pays principle, environmental law, environmental protection, environmental liability, environmental damage, financial and legal responsibility, fundamental principle.

Introduction

In the context of globalization and rapid industrialization, the level of environmental degradation has been steadily increasing. Industrial waste, air pollution, the improper use of water resources, and the disruption of ecological balance pose serious threats to sustainable societal development. Consequently, environmental protection has become one of the most critical priorities for modern legal states.

In addressing these challenges, the fundamental principles of environmental law play a particularly important role. Among them, the “**polluter pays**” principle, widely applied in many contemporary states, is considered one of the core principles. The essence of this principle lies in the idea that those who cause pollution must bear the costs of managing it in order to prevent damage to human health and the environment.

For example, a factory that produces potentially toxic substances as a by-product of its activities is generally responsible for ensuring their safe disposal. This principle forms part of a broader set of norms aimed at achieving sustainable development worldwide.[2]

The polluter pays principle was initially developed within the framework of international law and was formally recognized in the 1992 Rio Declaration on Environment and Development. Today, it occupies an important place in the environmental policies of many countries. The principle functions not only as a legal concept but also as an economic mechanism, implemented through environmental taxes, fees, and compensation schemes.

In the Republic of Uzbekistan, a number of reforms have been carried out in the environmental sector. However, the polluter pays principle has not yet been fully implemented. At present,



improving mechanisms of liability for environmental damage, strengthening economic and legal measures, and adapting international experience to the national system remain highly relevant tasks.

This study aims to demonstrate the potential benefits of introducing this principle in Uzbekistan by analyzing foreign experience from both theoretical and practical perspectives.

METHODOLOGY

The objective of this research is to explain the theoretical foundations of the polluter pays principle in environmental law and to identify the necessary steps for improving its implementation in the Republic of Uzbekistan.

To achieve these objectives, the study employs legal analysis, content analysis, and comparative methods. Legal analysis is used to examine the normative foundations of the principle and the mechanisms of its practical application. Content analysis serves to systematize factual data from existing academic sources and to clarify their substantive meaning. The comparative method is applied to assess Uzbekistan's experience in relation to foreign practices, allowing for the identification of effective approaches and the adaptation of international experience.

Most importantly, the study evaluates the advantages of the polluter pays principle in comparison to traditional liability mechanisms. As a result, the methodological approach adopted in this research facilitates a comprehensive analysis of the system and enables an assessment of its effectiveness.

RESEARCH FINDINGS

In today's globalized and industrialized world, the protection of the environment and its preservation in a condition suitable for future generations has become one of the most pressing challenges. In many countries around the world, economic development has resulted in significant and often irreversible losses of natural areas. For this reason, modern states are increasingly adopting more comprehensive and systematic approaches to addressing environmental damage. In this context, the "polluter pays" principle is considered to play a crucial role and is widely applied across numerous jurisdictions. The core idea of this principle is that the financial and legal responsibility for environmental harm caused by pollution should be borne directly by the polluting entity. This approach aligns closely with the concepts of environmental justice and sustainable development.

All member states of the European Union are required to implement this principle under Directive 2004/35/EC (Environmental Liability Directive). The primary objective of this Directive is to establish a framework based on the "polluter pays" principle. This means that any company responsible for environmental damage is legally liable and must undertake necessary preventive or remedial measures, as well as bear all associated costs.[1]

According to Mizan R. Khan, a leading scholar in environmental law and climate change policy from Bangladesh, the polluter pays principle can be viewed as an economic, ethical, and legal instrument. It contributes to shaping global responsibility, reflects fundamental notions of justice, and serves as a mechanism that integrates environmental protection with social equity.[3] Similarly, economists Stefan Ambec (France) and Lars Ehlers (Canada) emphasize the effectiveness of integrating this principle into market mechanisms and its role in enhancing



social welfare. In their view, when polluters internalize the costs of their actions, resources are allocated more efficiently, and economic justice is promoted.[4]

According to the Organisation for Economic Co-operation and Development (OECD), the polluter pays principle internalizes negative externalities by assigning the costs of environmental damage to the polluting entity. As a result, economic decisions become more environmentally responsible. This principle creates economic incentives to reduce pollution and to adopt cleaner technologies, while simultaneously alleviating the financial burden on public budgets.[5]

In Germany, this principle is also firmly established through the Environmental Liability Act. This approach shifts the costs of environmental protection away from the general body of taxpayers and places them on those who cause environmental harm, thereby safeguarding public finances and enhancing economic efficiency.

The official portal of the German Environment Agency (Umweltbundesamt – UBA) provides the following explanation, which can serve as a theoretical foundation for the application of this principle: environmental liability is an instrument aimed at preventing environmental damage and ensuring its remediation. It strengthens the personal responsibility of (economic) actors. Well-designed environmental liability legislation creates economic incentives to avoid damage and ensures that compensation is paid for any harm caused by polluters.

From a legal perspective, environmental liability can be established within both public and civil law frameworks. Under civil law, it concerns compensation for damage to life, health, or property suffered by individuals as a result of environmental harm caused by others. Such forms of liability are, in particular, regulated by the Environmental Liability Act of 19 December 1990 (Umwelthaftungsgesetz).

At the same time, there are legal standards that oblige polluters to restore environmental goods even when such goods are not privately owned. These standards empower competent authorities to take action against polluters, apply enforcement measures where necessary, and order the remediation of environmental damage. Such provisions are reflected in the Environmental Damage Act of 14 November 2007 (Umweltschadensgesetz).

The German Environment Agency has been actively engaged for many years in further developing environmental liability frameworks at the national, European, and international levels.[6]

Researchers from the Faculty of Law at Integral University (Lucknow, India), Aqeel Ahmad Khan and Dr. Uzma, emphasize that the Indian experience demonstrates the significant role of the polluter pays principle in ensuring environmental justice. By assigning liability for environmental damage directly to the polluter, the principle is effectively implemented through judicial practice and legal mechanisms. It contributes to compensating damages, restoring the environment, and strengthening preventive measures against pollution.

According to their findings, the polluter pays principle encourages enterprises to adopt cleaner technologies through economic sanctions. At the same time, it reduces environmental expenditures borne by the state budget and contributes to achieving sustainable development goals. Overall, the application of this principle in India confirms its effectiveness as a practical legal mechanism.[7]

According to the prominent British researcher and science communicator John Maddox, environmental degradation represents an “economic puzzle.” If the financial cost of pollution is



properly defined and imposed on companies, the solution to the problem will emerge naturally. In his environmental analyses, he characterizes environmental degradation as an economic problem that can be addressed through appropriate economic instruments. In his view, accurately determining the financial cost of pollution and ensuring its compensation by the polluter is a key factor in achieving environmental sustainability.[8]

A significant body of research and scholarly literature highlights the key functions of the polluter pays principle:

- 1) Economic integration function: The OECD prohibits state aid (subsidies) intended to cover pollution control costs. This prevents distortions of competition.
- 2) Allocation function: It enables the internalization of social costs associated with pollution prevention and control measures carried out by public authorities. Thus, polluters are effectively allowed to pollute only upon paying the corresponding price.
- 3) Preventive function: It encourages polluters to reduce their emissions. When negative externalities are incorporated into product prices, prices increase, which in turn incentivizes consumers to prefer lower-cost alternatives and compels producers to develop environmentally friendly products.
- 4) Remedial (restorative) function: It ensures full compensation for environmental damage, including residual harm.

Furthermore, there is a widely held view that the polluter pays principle represents a manifestation of the principle of justice recognized in common law systems. Its objective is to allocate responsibility among those who cause pollution, rather than shifting the burden onto innocent third parties. This approach aligns with the concept of environmental justice.

Polluters may fulfill their obligations through instruments such as environmental taxes, emission permits, and direct regulatory measures. The primary goal is to internalize the costs of pollution by placing the financial burden on the polluter, thereby integrating environmental costs into the economic system.[9]

Research findings indicate that there are substantial grounds for applying the polluter pays principle in the Republic of Uzbekistan as well. In the national context, the implementation of this principle could serve as an effective mechanism for strengthening environmental liability and reducing environmental harm. From an economic perspective, the principle enhances environmental responsibility by converting negative externalities into internal costs borne by polluting entities.

The practical application of this principle would encourage enterprises to adopt cleaner technologies and to assess environmental risks in advance. On August 9, 2018, the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, convened a meeting on environmental protection, as well as the development of waste collection and recycling systems. During the meeting, particular attention was given to waste processing. The President emphasized the need to attract foreign investment and to develop new investment projects focused on waste recycling and energy generation from waste.

He stated: *“It is necessary to introduce a new system based on the ‘polluter pays’ principle, which is widely used in global practice. In other words, the cost of disposing of waste generated by products should be borne by the producing enterprises. These costs should not place a burden on the population.”*[10]



These statements provide practical evidence of the relevance and necessity of introducing the polluter pays principle in Uzbekistan. The existing environmental legislation of Uzbekistan, along with ongoing reforms in the environmental sector, creates a normative and legal foundation for the gradual implementation of this principle. As a result, the financial burden on the state budget related to environmental damage can be reduced, while the prospects for achieving sustainable development goals are enhanced.

In conclusion, the implementation of the polluter pays principle offers numerous advantages for Uzbekistan. Its incorporation into national legislation would play a significant role in environmental law, serving as an essential instrument for the development of environmental liability. International experience, particularly that of the European Union, Germany, and India, demonstrates that this principle is effective in reducing pollution, enhancing environmental responsibility, and promoting sustainable development.

The findings of this research indicate that Uzbekistan possesses sufficient legal and institutional foundations for the gradual implementation of this principle. Moreover, it can function as a crucial legal and economic mechanism in the field of environmental protection. Deeper integration of the principle into national legislation would contribute to improving mechanisms for compensating environmental damage, transforming the environmental behavior of producers, and strengthening state environmental policy. Therefore, the polluter pays principle should be regarded as an important strategic tool for ensuring environmental security and achieving sustainable economic development in Uzbekistan.

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