
HOLDING POLLUTERS ACCOUNTABLE – THE POWER OF POLLUTER PAYS PRINCIPLE IN HIMACHAL PRADESH

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ABSTRACT

The Polluter Pays Principle (PPP) is a vital legal mechanism that ensures polluters bear the cost of environmental damage caused by their actions. In Himachal Pradesh, a state characterized by its fragile Himalayan ecosystem, PPP has been instrumental in addressing critical environmental challenges such as deforestation, illegal mining, and pollution-induced natural disasters. This research paper explores the application, legal framework, and impact of PPP in Himachal Pradesh, focusing on landmark cases and judicial interventions. The National Green Tribunal (NGT) has played a significant role in enforcing PPP in the state. For example, the 2014 ruling on Rohtang Pass highlighted the detrimental effects of black carbon emissions on glacial retreat, attributing 40% of glacial melting to these emissions. The court ordered sweeping measures, including restricting transport to eco-friendly vehicles and implementing reforestation programs under strict monitoring. Similarly, recent NGT directives in 2024 addressed illegal mining and deforestation by imposing environmental clearance costs on violators to recover damages.

This paper also examines challenges in implementing PPP effectively, such as difficulties in quantifying environmental harm and ensuring proportional penalties. By analyzing judicial precedents and policy measures, this study underscores how PPP can balance environmental protection with developmental needs in Himachal Pradesh.

Keywords: Polluter Pays Principle, Environmental Accountability, Himachal Pradesh

Introduction

Himachal Pradesh takes its name from the Himalayas and literally means “land of the snowy mountains.” Geographically, it forms part of the western Himalayas with an altitude ranging between 350 - 7000 meters above sea level. Himachal Pradesh faces unique environmental challenges due to its delicate ecosystem. Activities like deforestation, mining, and vehicular emissions contribute to ecological degradation and climate change. The Polluter Pays Principle (PPP) is a fundamental concept in environmental policy that holds polluters financially accountable for the environmental harm they cause. It is designed to ensure that the costs of pollution prevention, mitigation, and remediation are borne by the polluter rather than society or future generations. This principle aligns with India’s constitutional provisions under Articles 21, 48A and 51A for environmental protection. As Himachal Pradesh continues to navigate the complex interplay between development and environmental protection, the implementation of polluter pays principle has gained significant momentum in recent years and represents a significant step towards sustainable growth.

Historical evolution and global significance

The concept of PPP was first articulated by the Organisation for Economic Co-operation and Development (OECD) in 1972, emphasizing that the costs of pollution should be incorporated into the prices of goods and services. This notion was further solidified in the 1972 Stockholm Declaration and later in the 1992 Rio Declaration on Environment and Development, which explicitly stated that national authorities should ensure that polluters are responsible for environmental damage. PPP has since been recognized in various international agreements, including the United Nations Framework Convention on Climate Change. It serves as a guiding principle for sustainable development, advocating for economic efficiency, social justice, and the internalization of environmental costs to prevent market distortions.

Research Objectives

- To examine the legal framework of PPP in Himachal Pradesh.
- To analyze judicial interventions in enforcing PPP.
- To assess challenges in implementing PPP effectively.

- To suggest policy measures for strengthening PPP in the state.

Research Methodology

This study is based on a doctrinal research approach, relying on primary sources such as constitutional provisions, environmental laws, and judicial decisions, along with secondary sources including reports, scholarly articles, and case studies.

Legal Framework of Polluter Pays Principle in India

India adopted the PPP following its commitment to international environmental standards, particularly after signing the Stockholm Declaration. The PPP has been integrated into Indian environmental law through judicial precedents and statutory mechanisms. The National Green Tribunal Act (2010) further empowered the NGT to adjudicate cases involving substantial environmental questions under key statutes.

Constitutional provisions:

The “Polluter Pays Principle”, though not explicitly mentioned in the Indian Constitution, is recognized as a key environmental law principle and has been integrated into constitutional and legal frameworks through judicial interpretation.

Article 21 guarantees the right to life and personal liberty, which includes the right to a healthy environment. This provision has been interpreted by courts to support the application of the Polluter Pays Principle, ensuring that polluters are held accountable for environmental damage and that citizens’ rights to a clean environment are protected.

Article 48-A directs the state to protect and improve the environment and to safeguard the forests and wild life of the country. This article indirectly supports the principle by emphasizing the state’s responsibility in environmental protection.

Article 51A(g): It is the duty of every citizen to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. This duty indirectly supports the “Polluter Pays Principle” by emphasizing citizens’ responsibility to protect the environment.

The principle gained prominence through judicial interpretations in landmark cases such as:

Vellore Citizens' Welfare Forum vs. Union of India 1996 (5) SCC 647

The case addressed severe environmental degradation caused by untreated effluents discharged by tanneries in Tamil Nadu, which polluted the River Palar and rendered agricultural land unfit for cultivation. The Court held that polluting industries are absolutely liable to compensate for the harm caused to the environment and affected individuals. It extended liability to include costs for restoring ecological damage, emphasizing sustainable development. The Court also directed the establishment of an authority to assess environmental losses and ensure compensation from polluters.

Indian Council for Enviro-Legal Action vs. Union of India 1996 SCC (3) 212

The case involved heavy industrial pollution in Bichhri village, Rajasthan, caused by chemical industries operating without permits. The Court held the polluting industries liable for the environmental damage and directed them to bear the cost of eco-restoration, emphasizing that polluters must compensate for harm caused to the environment and affected communities. This judgment reinforced accountability under environmental laws and marked a significant step in implementing the principle in India.

M.C. Mehta vs. Kamal Nath (1997) 1 SCC 388

This case concerned environmental degradation caused by Span Resorts in the Kullu-Manali valley, Himachal Pradesh. The Court applied the "Polluter Pays Principle" and the Public Trust Doctrine, holding the respondents liable for altering the course of the River Beas to protect their property, leading to ecological damage. It emphasized that natural resources are held in trust by the state and cannot be exploited for private gain.

Here are the key statutes incorporating PPP:

The Environment (Protection) Act, 1986: Provides the central government with the authority to take necessary measures to prevent and control pollution.

Section 3 & 5: Empower the government to impose penalties and require polluters to take remedial action.

The Water (Prevention and Control of Pollution) Act, 1974: Establishes the Central and State Pollution Control Boards (CPCB & SPCBs) to regulate water pollution.

Section 25 & 26: Require industries to obtain consent before discharging effluents into water bodies.

Section 33: Allows the Pollution Control Boards to approach courts for injunctions against polluters.

The Air (Prevention and Control of Pollution) Act, 1981: Aims to prevent and control air pollution by regulating emissions from industries and vehicles.

Section 22: Prohibits industries from releasing air pollutants beyond prescribed limits.

Section 31-A: Grants power to issue directions for closure or restriction of industries violating pollution norms.

The Public Liability Insurance Act, 1991: Mandates industries handling hazardous substances to obtain insurance coverage. *It also ensures that victims of environmental damage receive compensation from polluters.*

The National Green Tribunal (NGT) Act, 2010: Establishes the NGT as a specialized body to handle environmental cases.

Section 15: Empowers the tribunal to order relief and compensation for environmental damage, applying PPP.

The Hazardous and Other Wastes (Management and Trans boundary Movement) Rules, 2016:

Regulate the handling, storage, and disposal of hazardous waste.

Rule 4: States that “the occupier shall be responsible for safe and environmentally sound handling of hazardous waste.”

The Municipal Solid Waste (Management and Handling) Rules, 2016: Requires local bodies and waste generators to bear the cost of waste disposal. It also imposes penalties on those failing to manage waste properly.

The Biological Diversity Act, 2002: Protects biodiversity and holds polluters accountable for environmental harm.

Section 24: Provides for action against those who cause damage to biodiversity.

The Compensatory Afforestation Fund Act, 2016: Requires industries diverting forest land for nonforest purposes to compensate by afforestation. *The* funds collected are used for environmental restoration.

The Coastal Regulation Zone (CRZ) Notification, 2011: Regulates activities in coastal areas to prevent pollution and degradation. It also mandates industries and projects to bear the cost of environmental restoration.

Judicial Intervention In Himachal Pradesh

Court on its own motion v. State of Himachal Pradesh, 2014 (Rohtang Pass Case)

Background:

- The National Green Tribunal (NGT) addressed severe environmental degradation at Rohtang Pass, an eco-sensitive area in Himachal Pradesh, due to heavy vehicular traffic and tourism activities. Concerns included black carbon deposition, pollution-induced melting of glaciers, and damage to the fragile ecosystem caused by over 4,000-5,000 vehicles operating daily

Key Directions by NGT:

- Capped the number of vehicles allowed at the pass to 1,000 per day to limit emissions.
- Mandated the construction of a ropeway between Palchan and Rohtang Pass to reduce vehicular traffic.
- Imposed restrictions on plastic use, required eco-friendly toilets, and mandated solid waste management in the area.
- Directed emission checks for vehicles and levied environmental fees on tourists and vehicles entering the area under the Polluter Pays Principle.

Polluter Pays Principle Application:

- The NGT applied this principle by requiring polluters (tourists and vehicle operators) to bear the cost of mitigating environmental damage. Fees collected were used for ecorestoration efforts.
- This principle ensured accountability for pollution while funding sustainable solutions like ropeways and afforestation.

Illegal Mining and Deforestation (2024)

Background:

- In 2024, the NGT addressed illegal mining and deforestation linked to natural disasters in Himachal Pradesh. Environmental clearance costs were imposed on violators under PPP to recover damages. This directive aimed at curbing unsustainable practices while promoting ecosystem restoration.¹
- The case originated from a news report in The Hindu (November 25, 2023) highlighting deforestation, illegal mining, and unscientific construction as causes of natural calamities in Himachal Pradesh.
- The National Green Tribunal (NGT) took suo moto cognizance and flagged these activities as major contributors to environmental degradation, including landslides and riverbed erosion.
- A statewide crackdown led to 184 cases of illegal mining being registered by December 2024, with fines totaling ₹5.49 lakh imposed on offenders.

Recent update:

- On March 3, 2025, The National Green Tribunal (NGT) ordered the Himachal Pradesh government to recover an environmental penalty of ₹1.08 crore from 41 violators involved in illegal soil mining in the Baddi area within 60 days or make the payment

¹ <https://www.downtoearth.org.in/mining/daily-court-digest-major-environment-orders-march-1-2024--94795>

itself.

- A contractor, Gurdyal Singh, accused of selling illegally mined soil for the Chandigarh Baddi railway project, was directed to appear before the Tribunal. However, Singh had earlier received a clean chit from HPPCB due to insufficient evidence.
- The Tribunal also recommended setting up a mining post and deploying guards to monitor illegal mining activities.

Cement Industries and Environmental Damage

Himachal Pradesh hosts several cement plants, including those in Solan, Bilaspur, and Sirmaur, which have been linked to air and water pollution. The Himachal Pradesh High Court and the NGT

have imposed fines on companies violating environmental norms, applying PPP to ensure restoration.

Him Privesh Environment Protection Society v. State of Himachal Pradesh, (2012) 3 SCC 277

- The case involves Jaiprakash Associates Limited (JAL), which constructed a cement plant and a thermal power plant in Bagheri, Nalagarh, Himachal Pradesh, without obtaining the necessary environmental clearances.
- The Himachal High Court quashed the environmental clearance for the thermal power plant and ordered its dismantling within three months. The court also imposed a fine of Rs. 100 crores on Jaiprakash Associates Limited for environmental damages related to its cement and thermal plant projects.
- This judgment highlighted the strict enforcement of the Polluter Pays Principle in Himachal Pradesh, emphasizing the need for industries to adhere to environmental regulations.²

² <https://www.himdhara.org/2012/05/04/breaking-news-himachal-high-courts-landmark-judgement-onjaypees-cement-and-thermal-plant-project/>

- Sirsa (Nalagarh to Solan stretch)
- Ashwani (Yashwant Nagar stretch)
- Beas (Kullu to Dehragopipur stretch),
- Giri (Sainj area)
- Pabbar (Rohru area)

On recommendations from the River Rejuvenation Committee (RRC), Himachal Pradesh has imposed penalties on polluters of seven critically polluted rivers. The penalties are calculated using an environmental compensation formula based on factors such as the intensity of pollution, duration of violation, and population density in the affected area.

Tourism and Waste Management

Tourism in hill stations like Shimla, Manali, and Dharamshala generates enormous waste, straining local resources. *The Shimla Municipal Corporation v. State of Himachal Pradesh* case led to penalties on hotels and businesses failing to manage waste, reinforcing PPP.

Paldan Phunchog v. State of Himachal Pradesh, 2024 (Manali Municipal Council):

The NGT imposed a penalty of ₹4.60 crore on the Manali MC for failing to manage waste properly and polluting the Beas River. This was ordered under the ‘polluter pays’ principle for environmental damage caused by the discharge of untreated leachate from a waste management plant.

Previous Penalties: The HPSPCB had previously imposed penalties of ₹5 lakh in 2021 and ₹15.30 lakh in 2022 on the Manali MC for similar violations.⁴

Strengthening PPP in Himachal Pradesh

- Addressing River Pollution:

⁴ <https://www.tribuneindia.com/news/himachal/manali-mc-gets-3-more-months-to-pay-rs-4-6-crore-fine-for-polluting-beas/> & <https://timesofindia.indiatimes.com/city/shimla/ngt-imposes-rs-46-crore-fine-onmanali-mc-for-waste-mismanagement/articleshow/110750982.cms>

Seven river stretches in Himachal Pradesh, including Ashwani River downstream of Shimla, are critically polluted with high Biochemical Oxygen Demand (BOD) levels. Under PPP, industries discharging untreated effluents into these rivers should pay for cleanup efforts and infrastructure upgrades for sewage treatment plants.

Pollution Taxes on Wastewater Discharge: Introduce a graded tax system for industries based on the volume and toxicity of wastewater discharged into rivers.

- **Reforestation Initiatives:**

Himachal Pradesh lost 4.67 kha of tree cover between 2001–2023, contributing to CO₂ emissions equivalent to 2.40 Mt. Under PPP, industries responsible for deforestation should fund reforestation programs like HPSPCB's Pollution Abating Plant Abhiyan (PAPA)

- **Mandatory Installation of Pollution Control Equipment:**

Industries in Baddi-Barotiwala-Nalagarh should install advanced air pollution control devices (APCDs). The Himachal Pradesh State Pollution Control Board (HPSPCB) has already mandated APCEs for 1,821 industrial units, but enforcement needs strengthening.⁵

- **Expand Monitoring Infrastructure:**

Currently, Himachal Pradesh monitors air quality in only 10 towns. Additional Continuous Ambient Air Quality Monitoring Stations (CAAQMS) should be installed in industrial zones and ecologically sensitive areas like Shimla and Manali.

- **Electric Vehicle (EV) Promotion:**

Himachal Pradesh has already banned petrol/diesel vehicle purchases in government departments and offers a 50% subsidy for EVs under the Rajiv Gandhi Self-Employment Startup Scheme. This subsidy can be extended to private sectors.⁶

⁵ <https://www.teriin.org/projects/green/pdf/HP-Air-pollution.pdf>

⁶ <https://www.downtoearth.org.in/environment/himachal-sets-target-to-be-a-clean-and-green-energy-state-by-march-31-2026-93680>

Conclusion

In conclusion, the implementation of the Polluter Pays Principle (PPP) in Himachal Pradesh has shown significant potential in ensuring that polluters are held accountable for environmental damage. Through various judicial interventions and regulatory measures, PPP has been effectively used to restore ecological balance and deter future violations. For instance, the application of PPP in cases involving pollution in rivers and the creation of the Green Tax Fund for Rohtang Pass visitors demonstrate its adaptability in addressing diverse environmental challenges. However, to fully harness its potential, consistent enforcement and broader policy integration are essential. This study highlights the importance of PPP in promoting sustainable development and underscores the need for continued efforts to strengthen its application in Himachal Pradesh. By doing so, we can ensure that environmental protection remains a priority and that the natural beauty of the state is preserved for future generations.

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