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Status of the Principle Paying Principle in the Indonesian Legal System

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Abstract

Writing this article aims to identify and analyze the provisions of the 16th principle of the Rio Declaration on Environment and Development, namely the polluter pays principle as a form of state responsibility for environmental pollution. The polluter pays principle is a principle that is often stated in international declarations which are then included in international conventions and become principles of international environmental law. The first international instrument that refers to the polluter pays principle is the Organization for Economic Co-operation and Development (OECD) 1872, which is an international economic organization founded by 34 countries in 1961, which aims to stimulate economic development and world trade. The application of the polluter pays principle as a risk from business actors conducting their business is regulated in the Regulation of the State Minister for the Environment of the Republic of Indonesia Number 13 of 2011 concerning Compensation for Environmental Pollution and/or Damage. Considerations for claims for environmental compensation

are contained in the section weighing letters b and c which state that the amount of compensation due to environmental pollution and/or damage is determined based on an agreement between the disputing parties or a court decision. In the sustainable development of a country as a whole, environmental policies and economic policies are closely intertwined. In some countries, the principle that polluters pay is used as a legal tool to control an entity's environmental activity obligations. The principle of "polluter payment" has become popular in many countries of the world. In recent years, environmental issues have become a major concern for sustainable development in most countries. In the current context, scientific and systematic studies of the theoretical problem of the polluter pays principle, legal provisions reveal and apply the principle of following European legal provisions, from which solutions to improve environmental legislation and mechanisms for the effective implementation of this principle.

Keywords: Polluter Pays Principle, Legal System, Environmental Law

Introduction

Indonesia is a country located between the continents of Asia and the continent of Australia which has abundant natural resources with the longest coastline in Asia and even in the whole world and Indonesia has the largest forest after Kango and has various mining industry sectors located on various islands in Indonesia.¹ Abundant natural wealth can be exploited and utilized as a contributor to the country's foreign exchange with the aim of the prosperity and welfare of the Indonesian people. With abundant natural resources, there are also increasing industries in Indonesia, thus the Government views the importance of natural resources as a potential that is considered important and deserves to be reckoned with to improve the nation's standard of living, especially as a support for the economy of an independent country.² Commodities in the plantation sector that have saved the national economy due to a prolonged pandemic, have even shown an increase and demand for exports to various countries and are very high suppliers/ contributors of foreign exchange in Indonesia.³

¹ Shilvina Widi, *Indonesia Masuk Daftar Negara Dengan Hutan Terluas Di Dunia*, <https://dataindonesia.id/agribisnis-kehutanan/detail/indonesia-masuk-daftar-negara-dengan-hutan-terluas-di-dunia> diakses pada 21 Juni 2023 Pukul 9.35 WIB

² Rudy Hendra Pakpahan, Aras Firdaus, *Pertanggungjawaban Pidana Korporasi Perkebunan Atas Pencemaran Limbah Kelapa Sawit*, Jurnal Legislasi Indonesia, JDIHN, Vol. 17, No. 2, 2020, h. 2.

³ <https://www.tribunnews.com/kilas-non-kementrian/2021/03/09/kinerja-eskpor-kelapa-sawit-mampu-menopang-pertumbuhan-ekonomi-nasional> di akses pada 20 Mei 2023, Pukul 6.54 WIB

Initially, natural resources were seen as free in economic activities. Natural resources, such as forests, seas, various mines, are all understood as something that must be utilized without taking into account the sustainability of the environmental carrying capacity in the long term. As a result of this unlimited use, the environment becomes damaged or polluted, thus threatening the safety of life, including humans.⁴

The uncontrolled use of natural resources for economic activities creates injustice in their utilization, including at a certain level it can result in disaster for human life. Injustice in the utilization of natural resources⁵, can be in the form of control that does not take into account the preservation of the environment to continue to support life, including the disruption of the rights of people who are dependent on the preservation of environmental functions.

The understanding of natural resource wealth as 'common property' and considered something free of charge will continue to be used by users of natural resources, if regulations in the field of environmental law cannot provide clear boundaries regarding patterns of equitable use and efforts to protect them. Various problems will arise both due to conflicts over the use of natural resources and humanitarian disasters as a result of pollution and environmental damage. The tragedy of the common source of wealth caused by economic activity is due to the absence of a balancing mechanism between economic activity and efforts to protect and preserve it.

Initially, the process of economic development, intentionally or unintentionally, placed the community in a position that at any time had to face the dangers of environmental pollution and destruction. The awareness of economic actors to be responsible for bearing the burden of potential negative impacts from the resulting production process is not a basis for consideration. Even in the politics of natural resource utilization, state legal politics is oriented towards exploitation so that various interests for the conservation and sustainability of natural resources, because they are solely used as legal tools to support economic growth through increasing state income and foreign exchange.

The polluter pays principle is one of the principles in international environmental law. Around the year 60 in the cost of economic growth introduced the polluter pays principle a principle for polluters that should be avoided. This principle itself was adopted and first introduced by member countries of the Organization for Economic Co-operation and Development (OECD) and is also contained in the provisions of the 1972 European Communities Law.⁶

The principle of pollution pays first appeared in a document prepared by the International Organization for Economic Cooperation and Development (OECD), namely environment economics. The principle of paying pollution relates to Plato's classic statement which states if anyone intentionally spoils the water of another... let him not only pay for damages, but purify the stream or cistern that contains the water, if someone intentionally damages the

water or anything else... let him not only paying for losses but cleaning up streams or reservoirs filled with water.⁷

This principle itself also developed into several variations from its emergence, in general the variations themselves are divided into three, namely pigouvian tax instruments, economic instruments, and oversight. implementation of the emergence of the polluter pays principle itself exists to ensure that for victims who are harmed, the international law commission also recommends this principle to ensure that victims who suffer damage from incidents related to hazardous activities are able to obtain prompt and adequate compensation.⁸

John Maddox argues that pollution can be solved by calculating the costs incurred (price) and it is only an economic problem. It is further explained, "we can reduce pollution if we are prepared to pay for it", so that it is understood how much the ability to pay, both with programs to create anti-pollution prevention tools and indirectly by paying for losses caused by pollution.⁹ Based on the explanation above, this article focuses on two legal issues, namely: 1). What does the Polluter Pays Principle mean in the Indonesian legal system?, and 2). How did the Polluter Pays Principle Develop as a Principle of International Law?

Methodology

This research is a normative legal research. The research data used in this research is secondary data. Writing this article aims to be oriented towards change (reform oriented research), namely research that intensively evaluates compliance with current regulations. The approach used in this research is a conceptual approach. The specification of the qualitative analysis technique in this study is content analysis.

Discussion

1. The Polluter Pays Principle Mean In The Indonesian Legal System

The existence of the polluter pays principle is a principle that is often stated in international declarations which are then adopted into international conventions so that this principle is part of international environmental law. The first international instrument to refer to the polluter pays principle was the *Organization for Economic Co-operation and Development* (OECD) 1872¹⁰, namely an international economic organization founded by 34 countries in 1961, which aims to stimulate economic development and world trade.

The agency supports the principle of polluter pays to allocate the costs of pollution prevention and control measures to promote rational management of environmental resources and avoid bias in international trade and investment. The recommendation contains a definition of the pollutant principle which obliges polluters to bear the

⁷ Suparto Wijoyo, A'an Efendi. *Hukum Lingkungan Internasional*. Jakarta Timur. Sinar Grafika. 2017, h. 97.

⁸ Gandar Mahojwalaparipurno. *Prinsip Pencemaran Membayar untuk Mendorong Akses Kompensasi di Kebijakan ASEAN dalam Kasus Polusi Kabut Asap Lintas Batas*. *Jurnal Hukum Lingkungan*. Vol. 4. h. 115

⁹ Daud Silalahi, *Hukum Lingkungan Dalam Sistem Penegakan Lingkungan Indonesia*, Alumni, Bandung, 1996, h. 12

¹⁰ Mangku, D. G. S. *Perlindungan Dan Pelestarian Lingkungan Laut Menurut Hukum Internasional*. *Tanjungpura Law Journal*, 4(2), 161-177

⁴ Muhamad Muhdar, *Eksistensi Polluter Pays Principle Dalam Pengaturan Hukum Lingkungan Di Indonesia*, *Jurnal Mimbar Hukum*, Vol 21 No,1, Februari 2009, h.67-80

⁵ David Schlosberg, 2007, *Defining Enviromentasl Justice, Theories, Movements, and Nature*, Oxford University Press, New York, h. viii.

⁶ Muhamad Muhdar, *Ibid* h.72

costs required for the efforts taken by public officials to keep environmental conditions in an acceptable condition or in other words the costs required to carry out these efforts. This effort must reflect the price of goods and services that have caused pollution during the process of production and consumption.¹¹

Basically this principle stipulates the cost requirements as a result of pollution, which is charged to the perpetrators to be responsible as the cause of pollution. Efforts to apply the polluter pays principle is by allocating economic obligations related to activities that damage the environment and specifically related to accountability, the use of economic instruments and the application of regulations related to competition and subsidies. The application of the polluter pays principle in the national legal system is necessary based on the premise that the position of international law in the framework of law as a whole is based on the assumption that a type or field of law, international law is part of law in general.¹²

This argument cannot be avoided if we want to see international law as a set of provisions and principles that are effective, and really live in reality and therefore have an effective relationship with the provisions of other fields of law, including legal provisions that regulate human life in their respective national environments known as national law.¹³ And it has become an international obligation for Indonesia to comply with international environmental law in relation to the development of marine and petroleum transportation.

Based on an objective view that considers the existence and enactment of international law regardless of the will of the state. This view considers international law and national law as a single legal instrument. The consequence of an objectivist view is the application of the polluter pays principle as a unified international and national legal system as well as monism which is based on the idea of unity in all laws governing human life.¹⁴

International law and national law are two parts of a larger whole, namely the law that governs human life. The polluter pays principle emphasizes the economic aspect rather than the legal aspect because it regulates the policy on calculating the value of damage and its distinction. Simons in *Het beginsel 'de vervuiler betaalt' en de Nota Milieu beffingen*, this principle was originally proposed by E.J. Mishan, It is said that the polluter pays principle which originates from economics stems from the idea that a polluter is simply someone who commits pollution which he should be able to avoid. Likewise, legal norms in the form of prohibitions and

licensing requirements aim to prevent pollution that is actually avoided.¹⁵

In general, environmental policy tools emphasize prohibition provisions and licensing requirements as a direct and effective means of achieving the goals to be achieved if it relates to factual countermeasures at sources of pollution. Both direct control or physical facilities and the imposition of levies can be considered as the application of the polluter pays principle stated in the OECD report:

“The polluter pays principle may be implemented by various means from process and product standards, individual regulation and prohibition to levying various kinds of pollution charges. To or more of these instruments can be used together. The choice of instruments is particularly important as the effectiveness of a policy depends on it. This Choice can only be made by public authorities at central or regional level, in the light of a number of factors such as the amount of information require for the efficient use of the various instruments, their administrative cost, etc.”

The imposition of fees based on the polluter pays itself principle will be more if it is followed by the determination of payment, the amount of payment and the purpose of the payer from the environmental pollution that occurs. This argument itself is based on considerations, where so far the way to determine the value of losses due to pollution is more to determine the value of the victim's losses without including the value of environmental components.¹⁶

The liability for pollution actions must be commensurate with the nature and extent of their adverse impact on the environment. A specific classification of the extent and nature of any action that causes an adverse impact on the environment is very important. However, the effect of protecting the environment using such leveling was only about zero. Liability for acts of defamation must be sufficient to influence the interests and behavior of related entities (not symbolic).

Next, we need to mention environmental subsidies through grants, tax incentives, concessional loans, etc., which are very important to support the economy in the agricultural, industrial and service sectors. The most significant objective is to repair environmental pollution in situations where the injured person has lost the ability to bear the cost of handling environmental pollution. However, it could be argued that environmental subsidies are only considered a temporary measure as they can create adverse results and create conflicts with PPPs. In the author's view, this is where the real danger lies that some actors may exploit available environmental subsidies for nefarious purposes and still escape their responsibility for the environmental damage caused.

The fundamental objective of the Polluter Pays Principle is undeniable: 'polluters should bear the costs of enforcing measures through litigation or administrative penalty decisions (at the discretion of State Authorities). Through international adoption, standardization, and implementation

¹¹ Louka, Elli.. *International Environmental Law, Fairness, Effectiveness, and World Order*. Cambridge University Press. New York. Ebarvia, M, dan Maria Corazon. 2016, h.15

¹² Yuliantini, N. P. R., & Mangku, D. G. S. (2019). *Tindakan Genosida terhadap Etnis Rohingya dalam Perspektif Hukum Pidana Internasional*. *Majalah Ilmiah Cakrawala Hukum*, 21(1), 41-49.

¹³ Purwendah, E. K., & Mangku, D. G. S. (2021). *Implementation of Compensation for Oil Pollution by Tanker Ships in the Indonesian Legal System*. *International Journal of Criminology and Sociology*, 10, 111-119

¹⁴ Elli Louka, *International Environmental Law, Fairness, Effectiveness, and World Order*, Cambridge University Press, United Kingdom, 2006,h.. 51

¹⁵ Alan Boyle dan Patricia Birnie, *International Law and the Environmental*, Second Edition, Oxford University Press, 2002. h. 92-95

¹⁶ Op.cit., Muhamad Muhdar. h. 73

of these processes, it is expected that there will be a significant impact in efforts to minimize environmental degradation around the world.

2. The Polluter Pays Principle Develop As A Principle of International Law

The PPP can be applied internationally for addressing climate change, both in mitigation and adaptation. However, this warrants the fulfillment of a few conditions: (a) For developing countries to apply PPP, industrial countries are required to make transfer of resources, financial and technological, so that the former can improve environmental standards in production; (b) agreement on the specific year from which to assume historical responsibility by the industrial countries for past GHG emissions; and (c) a nation-state causing damage to another should bear the responsibility and pay compensation for it.

An International Monetary Fund (IMF) study that covered 176 countries finds that energy subsidy globally stands at a colossal \$1.9 trillion, of which industrial countries account for about 40% of the total including taxes foregone; the US subsidy alone amounts to \$502 billion; the study used a broader concept of subsidies to include failures to impose taxes on pollution externality and failures to impose taxes on energy that are comparable to taxes in other goods. In that exercise, the study assumed a price of \$25/ton of CO₂.¹⁷

The study argues that removal of subsidies can alone reduce 13% of global CO₂ emissions by 2050, and calls for imposing a carbon tax and putting a price on negative externalities of using fossil fuels. Together, the study prescribes offsetting the burdens on the poor by cash transfers and arranging access for them to alternative energy technologies. This huge amount of subsidy can be put against renewable energy worldwide which received six times less support than fossil fuels.¹⁸

Countries themselves are required to take action to prevent pollution that is cross-national in nature, including in estimating the time taken to reduce or eliminate pollution across national borders. The Convention on the prevention of Marine Pollution by Dumping Wastes and Other Matter, or better known as London Dumping, is an international convention signed on December 29, 1972 and entered into force on August 30, 1975, is an international convention which is an extension of the contents of the Stockholm Convention.

This convention basically discusses the prohibition of intentional disposal of waste in the marine environment. The objective of this convention is to protect and preserve the marine environment from all forms of pollution which creates an obligation for the Parties to the Protocol to take effective measures, either individually or jointly, to the best of their scientific, technical and economic capabilities to prevent, suppress and where possible stop pollution resulting from the dumping or burning of waste or other

hazardous materials at sea. Protocol participants are also obliged to align their policies with each other.

Pollution is a significant cost to society and a major concern for EU citizens. By implementing the Polluter Pays Principle (PPP), polluters are incentivized to avoid environmental damage and are held accountable for the pollution they cause. Overall, we find that PPPs are reflected and implemented to varying degrees in EU environmental policies and their scope and application is incomplete.

EU budgets are sometimes used to fund cleanup actions that would otherwise, under PPPs, be borne by polluters. We recommend strengthening the integration of PPPs into environmental legislation, strengthening the environmental responsibility regime at the EU level, and better protecting EU funds from being used to finance projects that are supposed to be funded by polluters.¹⁹

Each country itself is expected not to carry out project activities that can be expected to pose a risk of large-scale pollution and cross national borders, for this reason it is very urgent (extreme urgency). of accidents that occur, the principle of mutual exchange of scientific data, dispute settlement, the principle of equality to be heard, and international agreements or agreements in resolving cases that pollute across national borders.²⁰

The application of the polluter pays principle in cases of self-pollution can be carried out especially if this principle uses economic instruments that lead to civil law. The international commission itself stated that the principle of polluter pays is an important component in ensuring that victims who suffer from pollution that occur, are able to receive prompt and adequate compensation.²¹ Also this principle is more concerned with the internalization of costs for environmental damage that occurs.

The Convention on Civil Liability itself implements an accountability system based on the strict liability principle, in which polluters are absolutely responsible for pollution from oil spills that occur, without having to prove the existence of an element of guilt beforehand. The application of the strict liability principle itself is aimed at shortening and summarizing the compensation process and can overcome the conditions of the surrounding community affected by pollution.

The strict liability system itself has specificity compared to the liability based on fault system, where the process of proving the law is simpler and shorter in strict liability. What often happens and is a complicating factor is claims for compensation, however, the compensation process is limited due to the other side of strict liability, namely a ceiling of the amount of compensation.

The International Convention on Oil Pollution Preparedness Response and Co-operation approved by The International Maritime Organization (IMO) itself, states emphatically that the polluter pays principle as a general principle of

¹⁷ International Monetary Fund. "Energy Subsidy Reform: Lessons and Implications." 28 January 2013. Available online: <http://www.imf.org/external/np/pp/eng/2013/012813.pdf> (accessed on 22 Juni 2023)

¹⁸ Brief, Bloomberg. "Fossil Fuel Subsidies more than six times than Renewable Energy." 9 November 2011. Available online: <http://www.bloomberg.com/news/articles/2011-11-09/fossilfuels-got-more-aid-than-clean-energy-iea> (accessed on 22 Juni 2023).

¹⁹ Laporan khusus ECA berdasarkan Pasal 287(4), sub-paragraf kedua, TFEU

²⁰ Annisah Dian Utami Panjaitan; Novianti; Mochammad Farisi, *Polluter Pays Principle Terkait Pertanggungjawaban Corporate PTTEP Australasia Terhadap Pencemaran Minyak Di Laut Timur Indonesia, Uti Possidetis: Journal of International Law, Vol. 2 No. 2 (2021): 189-209*

²¹ Malvin Edi Darma. *Penerapan Polluter Pays Principle dan Strict Liability Terhadap Pelaku Pembakaran Hutan. Jurnal Hukum Adigama*. h. 6.

international environmental law, is also contained in the Preamble Convention on The Transboundary Effects of Industrial Accidents. In this case, Indonesia itself took the right steps in asking for compensation due to the pollution that occurred, especially the losses that occurred were very detrimental to the community and the polluted marine environment.

The polluter pays principle is indeed recommended in terms of pollution that occurs, especially involving the environment, especially the marine environment, and also the impact of pollution not only from a social perspective but also from an economic perspective for those who are affected by the pollution that occurs. In addition, the polluter pays principle is strengthened by conventions such as the 1972 Stockholm Declaration, the 1992 Rio De Janeiro Declaration and the 1969/1992 Civil Liability Convention. Actually, the settlement of compensation for pollution can be done with the 1992 Fund Convention which is a complement to the 1992 Civil Liability Convention.

Historically, the idea of PPP for environmental harm is rooted in both Western and Eastern traditions. Luppi *et al.*²² cite, as a footnote, in *The Dialogues of Plato: The Laws*²³ the celebrated passage by Plato: "If anyone intentionally spoils the water of another...let him not only pay for damages, but purify the stream or cistern which contains the water". We can cite some passages from another celebrated Indian philosopher Kautiliya, who lived more or less at the same time of Plato. This dates back to 300 BC, when Kautiliya in his *Arthashastra* (Study of Economics) prescribed different levels of financial penalties for causing harm to the environment.

The fines depended on the degree of harm caused. For example, he would prescribe "fines for voiding faeces in a holy place, in a place for water, in a temple and in royal property". Another example of property damage: "In case of damage to the ploughing or seeds in another's field—channels or a field under water, they shall pay compensation in accordance with the damage".²⁴

From the above passages of Western and Eastern sages, it was clear that they have conceived of the PPP for application to address problems of pollution in the local commons, as in those days there was no such private property culture, or global commons problems the way we have them today. Gradually, it was applied as an economic instrument in domestic policy making in order to allocate costs of pollution prevention and control.²⁵

The polluter pays (PPP) principle has been a cornerstone of international environmental law for almost fifty years, first mentioned in an OECD recommendation of 26 May 1972

and reaffirmed in its recommendation of 14 November 1974. Since then, it has been formalized on various occasions with the adoption by several international conventions, including:

1. The 1980 Athens Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities.
2. The 1992 Helsinki Convention on the Transboundary Effects of Industrial Accidents.
3. The 1992 Helsinki Convention on the Protection and Use of Transboundary Waterways and International Lakes.
4. The 1993 Lugano Convention on Civil Liability for Damage Resulting from Activities that are Harmful to the Environment.
5. The 1996 London Protocol to the Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Materials.

Significantly, PPP was widely discussed at the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. The principle was supported by all participating country representatives present. Principle 16 of the Rio Declaration states that "National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that polluters should, in principle, bear the costs of pollution, with due regard to the public interest and without distorting international trade and investment".

This principle can be seen as a directive for all countries on how to apply PPPs and other economic instruments when adopting environmental responsibility schemes. Many economists claim that much of the environmental damage is caused by producers "externalizing" the costs of their activities.²⁶ Finally, Caney proposes as complementary to the PPP the "ability to pay principle" (APP), which can take care of emissions of past generations and legitimate emissions of the disadvantaged countries and groups of people. He calls the latter poverty-sensitive PPP.

A strict application of PPP also will affect major developing countries, such as China and India, since PPP is not based on capability, but payment for using the ecosystem services of the atmosphere. While PPP is primarily a market principle, APP is a principle of justice. The equity part of PPP relates to the equitable distribution of the cost of mitigation.

The model of Greenhouse Development Rights²⁷ which links the problem of climate change to a responsibility and capacity index, with a universal development threshold, appears more appropriate, in terms of justice and fit with the Convention process. In another study, Muller and Mahadeva²⁸ propose a new framework (the Oxford

²² Luppi, Barbara, Francesco Parisi, and Shruti Rajagopalan. "The rise and fall of the polluter-pays principle in developing countries." *International Review of Law and Economics* 32 (2012): 135–44.

²³ Plato. *The Dialogues of Plato: The Laws*, 4th ed. Translated by Benjamin Jowett. Oxford: Clarendon Press, 1953, vol. 4

²⁴ WTO-UNEP. "Trade and Climate Change, Report by the United Nations Environment Programme and the World Trade Organization." 26 June 2009. Available online: http://www.wto.org/.../trade_climate_change_e (accessed on 16 May 2023).

²⁵ Smets, Henry. "The polluter pays principle in the early 1990s." *In The Environment after Rio: International Law and Economics*. Edited by Luigi Campiglio. London: Graham & Trotman/MartinusNijhoff, 1994, chap. 13

²⁶ Campbell-Mohn, CI, & Cheever, F. *Hukum Lingkungan*. Profesor Hukum Lingkungan, Universitas Denver, Colorado. 2020, h.34

²⁷ Kartha, Sivan, Paul Baer, Tom Athanasiou, and Eric Kemp-Benedict. *The Greenhouse Development Rights Framework*, 2nd ed. Berlin: Heinrich Böll Foundation, Christian Aid, EcoEquity and the Stockholm Environment Institute, 2008. Available online: <http://gdrights.org/2009/02/16/secondedition-of-the-greenhouse-development-rights/2008> (accessed on 18 May 2023).

²⁸ Müller, Benito, and Lavan Mahadeva. "The Oxford approach: Operationalizing 'respective capabilities'." 2013. Available online: <http://www.oxfordenergy.org/2013/02/the-oxford->

Capability Measure, OCM) for measuring the national differentiated economic capabilities (ATP-ability to pay) as an integral part of operationalization of the CBRD + RC.²⁹ In their calculations they use the analogous concepts of gross and net taxable income in a country; to illustrate the application of their methodology, they consider two examples: assessing the fairness of a given cost distribution and developing a (rule-based) “graduation scheme” regarding obligations to pay. They estimate that “while an OCM per capita scheme would be best, one should use ‘poverty-intensity of GDP’ as a second best surrogate”. Under this calculation, major emitters, such as India as a low-income country does not have any obligation in cost-sharing.

The fines are specifically for violations of regulations on environmental impact assessment, environmental pollution, violations of waste management, and violations of regulations on environmental protection for production and business, business and services, and violations of regulations on prevention, recovery, damage and environmental damage. incident. Pollution in the form of PPP has a critical characteristic that acts of pollution are still within the limits permitted by law. Meanwhile, fines for administrative violations only arise if they are committed in violation of the provisions of the law in the field of environmental protection but are not serious enough to be examined for criminal responsibility.

While PPP payments should result in environmental protection in a broad sense, they are subject to administrative law violations in the area of environmental protection. Having a bad impact on the environment or not still being fined even though the behavior is like that. Administrative sanctions in the field of environmental protection are considered as one way to ensure compliance with the payment obligations of polluting subjects with polluting actions, but not under PPP. In the form of payment according to PPP, the owner has the right to pollute to the extent permitted by law, but they are obliged to pay for this action. According to PPP, paying for polluting actions is a subject's legal obligation, which is a way for the State to force them to take action to fulfill the rights of other entities.³⁰

The legal obligation itself is not an act but a necessity to perform it. If the need is stated in practical activities, then the legal obligation has been fulfilled. While compensation for damage caused by environmental pollution is a form of accountability. Consequences to the detriment of the subject, which is reflected in the special relationship between the state and the entity, to compel the parties who caused damage to other entities to overcome the consequences by compensating for the material and mental losses they suffer in accordance with the law. Thus, a person who commits an act that results in environmental pollution, environmental damage, environmental events, damages the function and usability of the environment, harms human health and soul and talent, production and the legitimate interests of

organizations and individuals must compensate for such actions. Compensation for damage caused by environmental pollution is liable to entities to pay damages out of contract - one of the institutions with a long history in civil law.

Conclusion

The principle that the polluter pays is one of the tenets of environmental law. This principle best reflects economic action in environmental protection, using economic benefits to influence the behavior of entities in ways that benefit the environment. The environmental laws of many countries use this principle as one of the main ways of ensuring that the 'polluter' pays. The main meaning of the polluter pays principle is that the polluter will be financially responsible for meeting the environmental requirements set by the regulatory authorities. However, a wrong or incomplete understanding of this principle often occurs in practice.

Today, the polluter pays principle is increasingly being recognized as a legally binding principle. The environment is a very complex entity that has its own natural set of procedures to maintain its stability. It is very broad, and humans tend to disturb it, because it can be unstable. However, everything has a limit. When this disturbance goes beyond that limit, the environment cannot cope with this sudden change, leading to its degradation.

From the description above, according to the author, the contents of PPP are understood as asking for accountability and punishing actors who cause negative impacts on the environment, dispose of them to the environment, and take advantage of environmental factors to pay for actions that cause pollution. It offsets the negative impact of pollution through financial obligations and other forms of payment. The money paid for polluting activities is used to renovate and restore the environment and compensate for environmental losses according to the laws of each country.

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3. <https://www.tribunnews.com/kilas-non-kementrian/2021/03/09/kinerja-eskpor-kelapa-sawit-mampu-menopang-pertumbuhan-ekonomi-nasional>
4. Muhamad Muhdar, Eksistensi Polluter Pays Principle Dalam Pengaturan Hukum Lingkungan Di Indonesia, *Jurnal Mimbar Hukum*. 2009; 21(1).
5. David Schlosberg. *Defining Environmental Justice, Theories, Movements, and Nature*, Oxford University Press, New York, 2007.
6. Suparto Wijoyo, A'an Efendi. *Hukum Lingkungan Internasional*. Jakarta Timur. Sinar Grafika, 2017.
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approachoperationalizing-the-unfccc-principle-of-respective-capabilities/ (accessed on 12 May 2023).

²⁹ Mizan R. Khan, *Polluter-Pays-Principle: The Cardinal Instrument for Addressing Climate Change*, *Laws Journal*. 2015, 4, 638–653; doi:10.3390/laws4030638

³⁰ Trung, VT. *Prinsip pencemar membayar dalam hukum Vietnam*. Universitas Hukum Ho Chi Minh. 2019,h.45

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