



RESEARCH ARTICLE

The Applied Framework of the Polluter Pays Principle under International Environmental Law

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ARTICLE INFO	ABSTRACT
Received: May 22, 2024	The polluter pays principle is one of the most important legal principles for environmental protection, in addition to the general environmental principles that came to protect the environment within the framework of sustainable development, and this principle focuses on the rule that whoever causes harm to the environment is the one who pays more taxes, and this is considered a penalty As a result of compromising the safety of the environment, And in order to push towards reliance on environmentally friendly technology and industries. This principle expresses the intention of public authorities in most countries of the world to transfer a large part of the burdens and costs of pollution control from the shoulders of governments and pass them on to the polluters themselves, where according to the general principle and the rules of social justice, the one who bears the burden of environmental pollution is the one who caused it.
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INTRODUCTION

Within the framework of the features of the development witnessed by international law in the field of liability and compensation for environmental damage, the principle of "polluter pays" emerged within the contributions of international organizations in adopting some means that contribute to the prevention of environmental damage without resorting to traditional means, in order to gain time and shorten procedures by reaching satisfactory solutions for the parties concerned. In accordance with this principle, a State is obliged to ensure that activities carried out in its territory do not harm the environment of other States outside its scope, otherwise it bears the responsibility to eliminate and compensate for such damage by taking legislative and administrative measures to prevent all such risks. In environmental law, the polluter pays principle was issued to make the party responsible for the pollution liable for paying for the damage it causes to the natural environment, a regional custom because of the strong support it has received from most OECD countries and in the European market as well. The polluter pays principle has become an environmental policy principle aimed at encouraging the rational and optimal use of environmental resources.

Therefore, we will address in this research, to know the historical development of the polluter pays principle at the international and domestic levels, and then move on to the statement of the content of this principle and the most important means and methods of its application.

Historical development of the polluter pays principle

The polluter pays principle is one of the rules of international environmental law. Its first features appeared as an economic principle adopted by the Organization for Economic Cooperation and Development in 1972 and was included in the two principles (21-22 of the Stockholm Declaration 1973). Then many countries began to quote this principle and enact it in their internal laws, and it was considered The rationale for which Dedicated to protecting the environment and supporting sustainable development, In order to meet the environmental and development needs of current generations, as well as declare its responsibility to preserve natural resources and rationalize their consumption for future generations . (Hossam; Hassan. 2021)

Pollter pays principle definition

This principle is known in economic terms as the “principle of bearing external costs”, as the principle aims to bear the costs of pollution control to the polluter, as he must bear these costs as a cost of doing business, and the goods and services offered in the market must reflect the cost of the materials used, including That is environmental resources. (Noura M. 2014) It came for a basic idea, which is to allow all people to live in a satisfactory environment, while ensuring the removal of real pollution. In this regard, a number of tools are being created to implement this principle, for example, establishing a system of pollution fees and imposing rules, restrictive (emission) as well as the implementation of various financial mechanisms (compensation, tax breaks, etc.)(Nicoleta2012) From a legal standpoint, what is meant by the “polluter pays principle” can be defined as referring to one of the concerned parties: (Abdul Hadi, 1986) First: Anyone who causes environmental damage to others is obligated to pay appropriate compensation. (Abdel Hafez 2008) Second: It means that the person responsible for the activity that is harmful to the environment shall bear all costs necessary to prevent this damage from occurring. According to the opinion of one jurist (Kummer 1995), there is no longer what is called “absolute freedom to pollute.” The country generating hazardous waste must bear all the costs necessary to prevent damage to the countries through which this waste passes. Srinivas Rao, Special Rapporteur of the International Law Commission, believes that the polluter pays principle is the most successful means of distributing the costs of preventing and controlling pollution, and the application of the principle includes both preventive measures and remedial measures. (International Law Commission 1998) The jurist Jean-Pierre believes that the polluter pays principle, although it is one of the principles of economic guidance, over time it will occupy a coercive and binding legal status. (Hannequart 1995) "PRIEUR" defined it as the polluter bearing the social cost of the pollution he causes, and this leads to holding him responsible for ecological damage in order to cover all effects of pollution not only on property and people but also on the environment and nature. (Wafa 2012) The polluter pays principle, as defined by the Guidelines Concerning International Economic Aspects of Environmental Policies, means that the polluter must pay the costs of implementing specific measures to ensure that the environment is in an acceptable condition. In other words, the impact of the costs of these measures must appear in the costs of the goods and services that cause pollution in production, and consumption.” (General Assembly 2004)

The emergence and development of the polluter pays principle

The history of the polluter pays principle goes back to the early economic literature from the twenties of the last century, and then it gradually developed over the years. Returning to history, we find that pollution is as old as our planet itself, and its common meaning is “man’s introduction, directly or indirectly of materials or energy into the environment, which leads to Effects of a harmful)”nature that endanger , "human healthOECD 1974)

As for the official appearance of the principle It was in 1972 in the Organization for Economic Co-operation and Development through the recommendation adopted by the Council of this organization in May 1972 that this organization recommended: “ The principle that should be used in allocating the costs of pollution prevention and control measures to encourage the rational use of scarce environmental resources and avoid distortion in international trade and investment is the principle called the“ polluter pays principle”

(Al-Hiti 2014)

It is also considered an essential element in the principle of polluter pay environmental policies of the European Community) Bawat (2015) they were quick to define the content of the principle in a series of directives in order to give it a legal meaning. The European Community issued a directive in 1975 regarding waste, in which it emphasized that “the costs of waste disposal are borne by the waste generator, producer, or manufacturer, and not by the tax taxpayer or the manufacturer.” The consumer applies the polluter pays (principle European Directive 1975)

This principle was also confirmed in the Rio Declaration on Environment and Development of 1992, in Principle Sixteen of the Declaration, which indicated that: “National authorities should seek to encourage internal environmental costs and use economic agreements that take into account that the polluter must, in principle, bear the costs of pollution, taking into account public interests

“without harming international trade and investment (Rio 1992) This principle was also stipulated in many international agreements, especially in the field of climate change, which were developed in order to limit the effects of climate change. And the extent of its impact on the environment and public health, as failure to take action by the international community will lead to serious impacts on human life.” (H. Khalafa; Mustafa 2023) Such as the 1992 United Nations Framework Convention on Climate Change On the internal level, The principle is spreading in many countries, especially with the escalation of damage that deteriorates the environment from its natural state. Countries have begun to take the necessary measures and procedures to prevent pollution resulting from dumping waste and practicing some activities that are harmful to the environment. (M. Hammoud; Nour 2021) Through the polluter pays principle, Some of them took the principle explicitly and it was enacted in their internal legislation as a main principle for environmental policies, while others contented themselves with referring to the principle implicitly. In the United States of America, the Comprehensive Environmental Response Compensation and Liability Act was issued 1980.

(Liability act 1980) It established a strict system for holding accountable any person who (caused the pollution of an environmental environment by the action of a pollutant, without paying attention to the criterion of wrongdoing. The civil liability system was also distinguished in this regard. The framework has a retroactive and solidary effect as polluting companies can be held accountable in a solidary and retroactive manner for removing environmental pollution, even if it was necessary to remove it from the public authorities at the expense of polluting companies (Mathias 1997)

And in France: may be The establishment of liability for the environment began with the European Directive of 2004, which was introduced into the French Civil Code by virtue of the law of 1 August 2008. The Directive included provisions for environmental liability and the prevention and compensation of damage to the environment, based on The “polluter pays” principle. (European Directive 2004)

As for Thailand: In 1992, the polluter pays principle was introduced as part of the environmental law in Thailand, and it will be part of the environmental conservation strategies in the Eighth Plan for Economic and Social Development. (1996 Israngkura)

As for the Arab countries, some of them have adopted the “polluter pays principle.” We mention, for example, Algeria, The Algerian legislator, according to Article 3/7 of the Environmental Protection Law within the Sustainable Development Framework No. 10/3, has adopted the polluter pays principle and defined it as “the principle according to which every person whose activity causes or could cause harm to the environment bears the costs of all measures.” Preventing and reducing pollution and restoring places and their environment to their original state.”) Algeria Law 2003)

And in the UAE: Lost the environmental legislator stipulated in Article 71 of the UAE Environmental Protection Law No. (24) of 1999 that: “Anyone who, by his action or negligence, causes damage to the environment or to others as a result of violating the provisions contained in this law or the regulations or decisions issued in implementation thereof shall be responsible for all costs necessary to treat or remove these damages, and shall also be required to pay any compensation that may result therefrom. (UAE Law 2006)

As for the position of the Iraqi legislator: it did not explicitly stipulate the polluter pays principle, but by referring to the Iraqi Environmental Protection and Improvement Law No. (27) of 2009, we found that Article (32) of it stipulated that (First: Anyone who causes a cause by his personal action or negligence is considered responsible His negligence, or the action of those under his care, supervision, or control, whether persons or followers, or his violation of laws, regulations, and instructions, causes damage to the environment. He is obligated to compensate and remove the damage within an appropriate period and restore the situation to what it was before the damage occurred, by his own means and within the period specified by the Ministry and under the conditions set by it. . (Iraqi Environmental Law 2009) Through the text of this article, we notice that the Iraqi legislator has applied the provisions of “ The polluter begins to pay,” even if implicitly , as it obligates the polluter whose activity causes damage to the environment to remove that damage and compensate for it, and in this way He took the therapeutic aspect of this principle, and was not satisfied with this matter, but rather the person is responsible for eliminating the harm that comes from people who are under his care or supervision. We note from the second clause of the above article that the legislator has placed the cost of removing the damage on the polluting person , not society, and this is what the polluter pays principle refers to : that those who produce the pollution must bear the costs of removing it. To prevent harm to human health and the environment.

THE CONTENT OF THE POLLUTER PAYS PRINCIPLE

The polluter pays principle includes compensation for direct damage caused by the polluter to the Prevention with regard to dangerous or special activities, and thus includes environment, or expenses continuous or periodic polluting activities, so the one who caused the damage or the polluter, whether an individual, a company, or the countries themselves, bears responsibility for the damage caused to the environment or to people, even if the element of fault on his part is not proven . Because this principle is considered a modern, objective basis for redressing environmental damage, as it does not depend on the It is sufficient to prove the causal relationship between his (^{Hadi} 2021) .element of error and illegal action .act and the harm resulting from this act or activity

Polluters (people who bear the costs of pollution)

The polluter is the person who causes pollution that harms the environment, that is, the person who carries out an activity that results in harm to others. Therefore, identifying the polluting person is useful in facilitating work in accordance with the polluter pays principle. It reveals who is obligated to pay and bear the costs of removing pollutants. Since environmental damage often results from a group of pollutants from different sources, it is sometimes difficult to distinguish who is responsible for the polluting activities and who caused the damage (Sharaf 2006) Whether in cases of long-term pollution or in cases of internal pollution, which results from several sources such as air pollution from fumes coming from automobile or factory exhausts and in other cases it may be impossible to identify , sources of emissions. Pollutants, as in the case of polluting the waters of international rivers by dumping (Noman 2004) . waste, or by discharging water from factories and nuclear reactors

It may mean, for example: A. The possessor who bears responsibility for guarding or controlling the polluting substance before it causes pollution .

B. The person who exercises management or control over the facilities from which the polluting substance is released.

C. The person who owns or occupies the land, building, or facility from which the polluted substance leaks (Smets 1993). As for the pollutants associated with carriers, there is difficulty in identifying the polluting person. For example, it is not possible to know who bears the costs of removing the pollutants that affect homes due to car smokes. Therefore, it is sometimes useful to identify the pollutant as the economic agent, as it plays a decisive role in causing pollution instead of Who is causing the pollution, as some point out that the polluter, not the person causing the pollution, is

responsible for the costs necessary to prevent and control pollution and compensate for the damage to the environment or to people, justifying this matter by saying, "Not every discharge of a substance into the atmosphere, soil, or water is pollution." So one cannot focus on the cause." (Ludwig 1992) The owner of the car factory can be considered the polluter, while pollution results from the use of the car by its owner .

However, we note that some European Community countries, such as England, Italy, Greece, In Spain, the polluter is the person who emits pollution or causes pollution, as he is the one who bears the costs of preventing and controlling pollution.

For our part, we support what some European Community countries have said, that the person who caused pollution in the environment is the polluter. In other words, the person who caused direct harm to others is the one who bears the costs of removing that harm and compensating for it. This is what the principles of justice require, so that Even if the economic agent or owner is another person, it is fair to consider that whoever created the pollution bears the costs of removing it and compensating for it.

There is a suggestion that says: When it is not possible to identify the polluting person, the cost of combating pollution is borne by the polluters in solidarity in every case, through mechanisms that ensure the best solutions from an administrative and economic perspective in order to prevent and combat pollution. (Ludwig continues the proposal decidedly

in the case of pollution chains costs could be charged at the point at which the number of economic operators is least and control is easiest or else at the point where the most effective contribution is made towards improving the environmental and where distortions to competition are avoided (If both the polluter and the person responsible for the pollution are absent, The state must intervene to pay the cost of damage to pollution victims. Some countries, such as Canada, have sought to establish a fund to compensate for damages resulting from marine pollution. This fund is financed from the fees imposed on imported petroleum that enters Canadian ports by sea, in cases where it is not possible to determine who is responsible for the pollution. (Al -Shiwi 2001) Since the polluter pays principle refers to the responsibility of all persons, whether natural or moral, to take preventive and remedial measures to eliminate and compensate for the damage to the environment and humans. Among the legal entities that bear responsibility for eliminating pollution are (countries), A number of legal instruments and international agreements have indicated the responsibility of the state , as an actor causing pollution, to take preventive measures to prevent and control pollution, for example the Basel Convention on the Control of the Transboundary Movement, Storage and Disposal of Hazardous Wastes of 1989, which entered into force in 1992 . It specifies specific obligations for member states to take all practical steps to ensure that hazardous waste is managed in a way that protects human health and the environment from the (Abdul Hafez 2008) .adverse effects resulting from these wastes

also an obligation on companies, As polluting agents, It must adhere to the laws during production processes, so emissions and waste from factories remain within permissible limits . On the environmental level, many violations were recorded by companies and the private sector, with the number reaching 150 violations between two years (1983-2002), as a result of negative effects , suchas misuse of globally shared areas, And unsustainable uses of biological diversity, including the leakage incident from a pesticide factory in Bhopal , India, in 1984, caused by an American multinational company (Morgera 2009). Likewise, companies are responsible for paying all costs resulting from leaks on their pipelines For example .especially major oil companies , as these are subject to regulatory and legislative regulations , to take the Canadian Energy Commission, when it applies the polluter pays principle, requires companies , all necessary measures to make the pipeline safe. , and clean up the spill and remediate the environment, regardless of the cost to the company. The Canadian Energy Regulator(CER) requires Companies .compensate those who suffer damages(Fact sheet)

Costs borne by the polluter

International agreements that embody the polluter pays principle, including decisions and recommendations issued by the Organization for Economic Cooperation and Development, as well as the European Community, have pointed out the most important costs of preventing pollution that fall on polluters

(a) Pollution prevention costs : In accordance with the recommendations issued by the Organization for Economic Co-operation and Development (OECD) for the years 1972 and 1974) The polluter must bear “the costs of pollution prevention and control measures,” the latter being “measures decided by public authorities to ensure that the environment is in an acceptable state.” That is, the polluter must bear the cost of the steps he is legally obligated to take To protect the environment, such as measures to reduce emissions of pollutants at the source and procedures to avoid pollution through collective treatment of liquid waste from a polluted facility, as well as taking further measures to reduce the adverse effects of pollutants when they are emitted into the environment, and other sources of pollution. (OECD)

(B) Incidental pollution costs: Initially, the polluter pays principle was established to a large extent in the context of persistent or chronic pollution, which must be gradually reduced to an acceptable level. Then the principle began to expand. In 1988, the Organization for Economic Cooperation and Development approved, the principle also applies to accidental pollution, (OECD 1988) in 1989, and a recommendation was adopted on this subject. This recommendation stated that the cost of measures to prevent and control accidental pollution should be borne by the potential creators of this pollution, whether the measures are taken by them or by the authorities. These measures include the costs of preventing accidents that could cause harm to the environment, as well as the costs of cleaning up after the accident. (OECD, 1989) Therefore, the general principle embodied in the OECD recommendation is that neither the risks of accidental pollution nor its consequences should be a burden on public funds, but must be borne by the polluter. But he only bears the cost of “ reasonable measures” so that he takes a responsible approach and adopts the most economically efficient decisions , The purpose of the principle is not to transfer all public expenditures, whatever they may be, to the polluter, nor to punish the economic agent who has no way to avoid accidental pollution, but to allocate the financial) . burden to the party most capable of making the most effective decisionsOECD Analyses and Recommendations (1992

c) Costs of transboundary pollution : Transboundary pollution is pollution that occurs in the) territory of one country, and its harmful effects result in the territory of another country (i.e., Other than the source country). Article the second draft of the International Law Commission, Transnational Damage, states that “Damage that occurs in the territory of a state other than the source state, or in other places placed under the jurisdiction of those states” (International Law Commission 1996) No, the polluter pays principle has been extended to cover transboundary environmental damage, as stated in the International Union for Conservation of Nature and its Resources report for the year 1995, The costs and expenses of prevention and prevention of transboundary pollution, and the costs of monitoring and abatement, are borne by the source of the (actual or potential damage to the environment. (Roy E 2001

also like to point out is that it is the result of the economic units carrying out their production and service activities, and the extent of their impact on environmental pollution , due to the emissions of fumes that cause pollution to the air or water or the discharge of environmentally polluting wastes, and their impact on the continuation of sustainable development in the long term, through the use of Natural resources and their development. Therefore, the need arose to have an (environmental administration) concerned with implementing the environmental costs accounting system , by providing a scientific and procedural framework, in order to measure, control and analyze the quantity of production factor inputs . Many

scientific studies and research have been published in European countries and the United States of America .

Environmental cost accounting has been known , It is the process of comparing and integrating environmental information with resources , assets, cost and income, where this information is reflected in ,the cost of the service or product and appears in the financial statements of economic units (Kirschner 1994)

The accounting measurement of environmental pollution costs depends on the scope and size of the environmental activities to be measured. It is possible to use the quantitative or monetary measurement method, or the descriptive measurement method , that is, to perform a structural description of the characteristics of the event. Accordingly, a guide to natural resource accounts can be prepared, the details Abbas) . of which are classified depending on the quality and volume of environmental data to be obtained (2000

also possible to use actual costs , that is, to compare the costs of environmental performance in the current periods with previous periods, or to use standard and planned costs in advance, in terms of relying on :accounting indicators, as follows

1. The average annual cost of controlling pollution of the produced commodity, for example:

Annual cost of pollution control

= xx Dinar/ ton

Actual annual production quantity in tons.

2. The pollution control rate for each individual affected by pollution is calculated as follows :

Annual costs of pollution control

= xx JD/ affected individual

.Total population of benefit * Percentage of affected population. (Sabah 2015) The principle of calculating the costs of pollution has been stipulated in a number of official announcements, which indicate that the costs of pollution should be borne by the polluter. The seven industrialized countries announced at the Economic Summit, which was held in (London 1991) , that environmental considerations should be integrated into government policies, in a way that reflects their economic costs, and that the price of energy As contained in Principle 16 of the Rio Declaration .should reflect all costs, including environmental costs on Environment and Development(Prior 1996)

Thus, the polluter pays principle coincides with the principle of calculating pollution costs as an internal element within the elements of production, as the economic nature of the polluter pays principle indicates .that the cost of pollution is reflected in the costs of producing goods and services(Smets)

APPLICATIONS OF THE POLLUTERS PAYS PRINCIPLE

The actual application of the polluter pays principle takes place on the ground by adopting mechanisms and means in accordance with a systematic environmental policy, through environmental collection represented by environmental taxes and fees on the basis of the polluter pays principle. Which aims to deter polluters in order to reduce the costs of pollution control by transferring them to those responsible for it, whether they are individuals or economic institutions. The principle was also applied through the emerging relations between countries, and through the accidents that occurred between them, and they paid the necessary compensation as a result of the damage that occurred to the environment of other countries. The .judiciary resorted to referring to the polluter principle in this regard

Means and tools for applying the principle

Environmental taxes and fees are the most important tools for implementing the polluter pays principle. They are imposed by public authorities on natural and legal persons who are polluters and who cause environmental damage through the exercise of their economic activities resulting from their polluting (Masdour 2010) .products, and the use of inappropriate and environmentally harmful technologies

There are several types of taxes that are imposed to reduce the severity of pollution, such as (product taxes imposed by public authorities on various productive sectors that engage in activities that could cause (pollution in the environment, in order to reduce the volume of pollutants to acceptable levels, such as taxes imposed on materials. Packaging waste (such as bottles) , plastic, and non-degradable detergents . For example , in England, a tax is imposed on rubbish bags (for solid waste), with a fee paid per bag in three-quarters of the communes , through the Environmental Damage (Prevention and Treatment) Regulations (The recycling rate has doubled in twenty years) . 2009(Environmental Damage Regulations2018)

a cost-effective way to There are also (taxes on emissions) such as carbon taxes, which are considered reduce greenhouse gas emissions . The tax is measured for each ton of carbon dioxide emissions emitted, .in order to be paid by energy users

Europe has imposed its first cross -border carbon tax. Within the framework of the emissions trading system, with the aim of urging companies within the borders of the European Union to reduce their emissions . Finland was the first country to implement a carbon tax in 1990, and as of April 2021, this tax (Zaher Hashem 2024) . amounted to \$73.02 per ton of carbon

As for environmental fees, many countries have begun to implement them as a means of the polluter pays principle to reduce emissions of pollutants into the environment, as the United Kingdom imposes fees on hydrocarbon oils, including gasoline and diesel fuel. This contributes to replacing inefficient vehicles with air polluting emissions, With models Newer, filter out older models that are out of use (cost and effectiveness 2008) . What we would like to point out in this regard is that That The OECD allowed for certain exceptions to the polluter pays principle, in its recommendations of 1972- which stated that member states should observe purchasing power parity and, as a general rule, “not , 1974 to help polluters” bear the costs of pollution control, except in There are certain circumstances in which major social and economic problems arise , and these circumstances must be exceptional, such as facilitating transitional periods when implementing strict pollution control systems (OECD Doc C(74)223) .

A subsidy is an instrument that helps reduce the cost of pollution control measures, granted to polluters by governments, in order to assist in their initial or transitional efforts to reduce their emissions. Aid for these purposes will not be a valid exception to the polluter pays principle , only if it forms part of the transitional arrangements that Their duration is predetermined and does not lead to significant distortions in international trade and investment. These transitional arrangements could also include a timetable for the gradual tightening of emissions standards and raising the scope of duties to the levels required to reach .quality targets(ORGANISATION FOR ECONOMIC 1992).

Case law applying the polluter pays principle.

There were many cases that were presented before international and national courts, in which we found a clear embodiment of the polluter pays principle. For example, the case of (Hungary and Slovakia) , which was presented the dispute was the construction of a group before the International Court of Justice in (1997) , and the subject of of dams on the River Danube, in order to optimize the exploitation of natural resources, by generating electricity, by exploiting the energy of altitude, but later the experts realized the amount of environmental risks that arise when working on the project, and this will lead to unavoidable damage , and therefore the two parties asked the International Court of Justice to intervene. In order to resolve the existing conflict between them. The court issued its ruling in accordance with paragraph 155 that “ Slovakia must)”.compensate Hungary for the losses it caused as a result of the operation of the interim solution project (Afkrean 2005

As well as the case of (smelter factory). Trail 1896), before international arbitration courts , as a zinc and lead foundry was established in the territory of Canada, a distance (10 kilometers) from the American border, and American farmers were harmed as a result of the rising fumes emanating from the factory. Because it contains a high percentage of sulfur, the court issued a compensation ruling in the amount of) .thousand US dollars for all damages resulting from the factory's fumes (78)(REPORTS OF INTERNATIONAL (2006).

the Erica oil tanker , which was presented before the European Court of Justice in As well as the case of where the tanker sank off the French coast, causing oil leakage and pollution of the French coast. ,1999 The court concluded that the owners of the accident, in this case the company (Total France), could be responsible for Oil pollution under Article 15 of the Waste Framework Directive , if it has contributed to International agreements to which ...the pollution risk. The court also found that it is liable even when .France has joined limit liability on waste holders(Case C-188/07)

As for case law before national courts, we mention one of them (a case between France and the Netherlands), where the facts of this case are summarized in the fact that a French company (MDPA) operates some mines in the province of Alsace Alasace , dumps its toxic salt waste into the Rhine River, causing cross-border damage between France and the Netherlands and affecting river water users. The court indicated that the company is obligated to provide due diligence to prevent pollution and its damages, and accordingly it ordered the payment of compensation for the resulting damages in accordance with the polluter pays principle. (Al-Haf 1988)

As well as the case (MC Mehta v. Union of India) in 1987, before the Indian judiciary, where the events of this case relate to the leakage of harmful gas oil from the (Shriram Food and Fertilisers Ltd) complex when it was carrying out industrial activities in Delhi, which led to the creation of... Lots of panic in Delhi. One person died as a result of this accident, and a few were taken to the hospital. (Supreme Court of India 1987) The court asked Shriram Food and Fertilisers Ltd to deposit an amount of Rs 35,000 in a bank, and guarantee Rs 15,000 in court to be paid as compensation to people who claim and prove that they were victims of the oleum gas leakage case. Thus, this innovative treatment was developed in this case, which was considered as an indirect recognition and application of the polluter pays principle (Mehta MC 1999).

CONCLUSION

At the conclusion of our research on the issue of the polluter pays principle from different aspects, :we reached a certain set of conclusions and proposals, which are as follows

Conclusions

1. The polluter pays principle is a concept with an economic dimension, which was decided in order to cover the costs of prevention necessary to protect the environment from pollution and limit its harmful effects. It is a principle that stems from the idea (prevention is better than cure) to ensure the prevention of catastrophic disasters in the environment. Then the principle became a legal dimension. By urging responsibility for the person who pollutes and requiring compensation, it is also a means of redressing harm.
2. We find that the legal texts issued recently included many incentive methods in the field of protecting the environment from the effects of pollution, and the best evidence of this is the embodiment of the polluter pays principle in many international laws and the internal legislation of countries, as the principle contributed to strengthening environmental policies and financing them through Environmental fees and taxes.
3. The polluter principle refers to the responsibility of all persons (polluters), whether a natural or legal person, meaning that the person who caused direct harm to others is the one who bears the costs of removing that harm, and this is what the principles of justice require, whether he is the

polluter or the producer of the polluted substance. He is the economic agent or another person, because it is fair to consider that whoever caused pollution and caused harm to others bears the costs of removing that harm and compensating for it. Likewise, for countries and various productive sectors, if they cause cross-border pollution and waste and harm the environment of other countries, they are obligated to remove those damages and compensate for them.

4. The application of the polluter pays principle is not limited to illegal activities only, but rather it came to be applied to all legitimate practices and uses that are not covered by law. Like production And consumption, as long as it may result in damage to the environment, as the primary goal of this preventive principle is to prevent and remedy environmental disasters.

5. The polluter pays principle had a role in relations between countries. It was referred to in many judicial precedents that were raised before domestic and international courts

Suggestions:

1. It is necessary for international agreements in the field of environmental protection to adopt the principle of the polluter pays explicitly and clearly, as a basis for holding the owner of the harmful activity responsible for compensation and eliminating the damage, such as the 2001 Convention relating to liability for damage caused by petroleum oil pollution, and to oblige countries to take preventive measures and measures to prevent environmental deterioration.

2. Environmental incentives system, in order to urge owners of economic sectors with different production units, to adopt environmentally friendly and appropriate products, to reduce emissions of pollutants and waste.

3. Calling on countries to expedite the issuance of instructions that facilitate the implementation of environmental protection provisions, as well as to issue instructions Polluting entities are obligated to dispose of waste and waste and recycle or reduce it, and give administrative control bodies the authority to impose penalties in the event of violation of these instructions.

SOURCES

:Arabic sources

1. Ashraf H. (2006). The polluter pays principle, Arab Renaissance House, first edition, Cairo, 1–150.
2. Mahmoud, J., and Nour, A. (2021). International protection of the high seas area from nuclear pollution, Journal of Legal Sciences, 36(1), 244–266, <https://doi.org/10.35246/jols.v36i0.417>
3. Hadeel, M., & Hadi, M. (2021). Risk theory as a basis for international responsibility for the actions of the Security Council that are internationally legitimate and characterized by exceptional gravity, Journal of Legal Sciences, 36(3), 99–134. <https://doi.org/10.35246/jols.v36i3.471>
4. Noman, M. (2004). International protection of the marine environment: a special legal study on the Red Sea (unpublished doctoral dissertation), Cairo.
5. Al-Shiwi, A. (2001). Compensation for environmental damage within the scope of public international law (unpublished doctoral dissertation), Mansoura University, Egypt.
6. Abdel Hafez, M. (2008). The Basel Convention and its role in protecting the environment from hazardous waste pollution, first edition, 1-64, Egypt, Dar Al-Kutub Al-Qanuni.
7. Abbas, B. (2000). Accounting for environmental impacts and social responsibility, first edition, 1-320, Alexandria, New University Publishing House.
8. Sabah, Q. (2015). Cost accounting system and management functions in business management units, a research paper published on the Iraqi Economists Network website, Dr. Sabah

- Qaddouri: Cost accounting system and management functions in business management units, Iraqi Economists Network (iraqieconomists.net), last visited 6/11/2024.
9. Masdour, F. (2010). The importance of government intervention in protecting the environment through environmental collection, *Al-Bahith Magazine*, 7(7), 345–351.
 10. Zaher Hashem, Will the “polluter pays” policy succeed in reducing carbon emissions and limiting climate change? Article published on the website. Will the “polluter pays” policy succeed in reducing carbon emissions and limiting climate change? | Science | Al Jazeera Net (aljazeera.net). Last visit: 6/11/2024.
 11. Are you thinking? M. (2005). *Public International Law*, First Edition, 1–955, Cairo, Arab Renaissance House.
 12. Hassan, F., & Hossam, K. (2021). Generational rights and their relationship to sustainable development, *Journal of Legal Sciences*, 36(3), 652–683. <https://doi.org/10.35246/jols.v36i3.488>
 13. Al-Haf, R. (1998). The human right to a healthy environment in international law (unpublished doctoral dissertation), Cairo University, Egypt.
 14. International Law Commission (1998), Volume I, A/CN. 4/SER. A/1998.
 15. Nations General Assembly (2004). International Law Commission, fifty-sixth session, Geneva.
 16. European Waste Framework Directive No. 35/2004.
 17. The law relating to environmental protection within the framework of sustainable development, For Algeria, No. 1 of 2003.
 18. The UAE Federal Law on the Environment and its Development, No. 24 of 1999, as amended by Federal Law No. 11 of 2006.
 19. Iraqi Environmental Protection and Improvement Law No. 27 of 2009.
 20. Noura M. (2014). Administrative responsibility and legal means of protecting the environment, *Journal of Human Sciences*, 34 (35)), 377–395.
 21. Abdul Hadi, A. (1986). The role of international organizations in protecting the environment, Arab Renaissance House, Cairo, 1-352.
 22. Abdel Hafez, M. (2008). International responsibility for transporting and storing hazardous waste, *Dar Al-Kutub Al-Lawaniyya*, Cairo, 1-606.
 23. Wafaa, B. (2012). Compensation for environmental damage in Algerian legislation (unpublished master’s thesis), Mohamed Kheidar University, Biskra, Algeria.
 24. Hittite, S. (2014). International legal mechanisms for protecting the environment within the framework of sustainable development, first edition, 1–640. Beirut, Al-Halabi Legal Publications.
 25. Bouat, M. (2015). Protecting the environment from hazardous waste in light of the provisions of public international law (unpublished doctoral dissertation), Abi Bakr Belkaid University, Algeria.
 26. Hawraa, F., and Mustafa, A. (2032). Climate justice in light of the Paris Climate Change Agreement, *Journal of Legal Sciences*, 37(1), 363–392. <https://doi.org/10.35246/jols.v36i0.421>.

Foreign sources:

1. Fact Sheet: Emergency Management and the Polluter Pay Principle [PDF 317 KB]. CER Fact Sheet: Emergency Management and the Polluter Pay Principle (cer-rec.gc.ca) ON 15/6/2024.
2. Nicoleta, D. (2012). The Polluter Pays Principle: EXPRESSION OF TORT LIABILITY FOR ENVIRONMENTAL PROTECTION, *Annals of the University of Oradea, Fascicula Protection Environment*, 18(2), 295–302. 2 Hannequart (JP), *The Law of European Waste, International Law Review*, compared, 47) 3 (835-812).
3. Comprehensive Environmental Response Compensation and Liability Act, 1988. (42S.C. 9601–9675).
4. Smets, (1993) the polluter pays principle is an economic principle in the sense of environmental law 76–71.
5. Ludwig, K. 1992. (FFocus on European Environmental Law, London, Sweet & Maxwell, 426–1).
6. Morgera, E. (2009). *Corporate Accountability in International Environmental Law*, first published by Oxford University Press, 1-334.
7. Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances, held in Paris on 9 and 10 February 1988, C (88) 83 (Final).
8. OECD, 1989, C (98) 88 final.
9. THE POLLUTER-PAYS PRINCIPLE OECD (1992) Analyses and Recommendations, Environment Directorate, Paris.
10. Roy E. Cordato (2001) *The Polluter Pays Principle: A Proper Guide for Environmental Policy*, Institute for Research on the Economics of Taxation
11. E. (1994). Full-cost accounting for the environment, *Chemical Week*, 9-154.
12. Prieur, M. (1996). *Droit de l'environnement*, 3 edition, 375–517.
13. *The Environmental Damage Regulations: Preventing and Remedying Environmental Damage*, 2018.
14. . OECD ITF Joint Transport Research Centre (2008), *the cost and effectiveness of policies to reduce vehicle emissions" (PDF)*.
15. *REPORTS OF INTERNATIONAL ARBITRAL AWARDS*, Trail smelter case (United States, and 11 March 1941, UNITED NATIONS Copyright (c) 2006,(3) pp. 1905-1982.
16. Case C-188/07 Municipality of El Meskir v Total France SA and Total International Ltd (reference to a preliminary judgment from the Court of Cassation (France), summary of the judgment, European Court of Justice issued on June 24, 2008).
17. The Supreme Court of India M. S. Mehta v. A. Federation of India (UOI) and Ors. Decided on December 20: Membership of the Court Sitting Judges P.N. Bhagwati (Chief Justice), G.L. Misra Rangnath Oza, M.M. Dutt, and K. N. Singh Views of the case decision of B.N. Bhagwati.C. Mehta v. Union of India, Wikipedia, on June 14, 2024.
18. Mehta MC. (1999). Growth of environmental jurisprudence in India, *Acta Juridica*, 1–53.
19. Kummer (1974). *International Management of Hazardous Wastes: The Basel Convention and Related Legal Rules* Oxford: Clarendon Press, 520-1
20. OECD Council Rec), 1974 (. C (74) 224.

21. Mathias, C., & Woodrow, K. (1997). The CERCLA Superfund Act and Ways to Avoid Liability that She Provides, *Environmental Law, International Review of Law*, 9(2), 62–83. .
22. Israngkura, (1997). The Polluter-Pays Principle: So Who Pays?, published in *TDRI Quarterly Review*, 11(3), 5-1
23. European Waste Action Framework Directive 1975/442/EEC.
24. Rio de Janeiro Declaration on Environment and Development, 1992.
25. OECD Recommendations on the 1972 Environmental Policy Guidelines (128-72(C) and 1974(74) C 223.
26. Studies in Social Cost, Regulation, and the Environment: No. 6, 1–16.