

A DETAILED STUDY ON THE PRECAUTIONARY PRINCIPLE WITH REFERENCE TO POLLUTER PAYS PRINCIPLE

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Abstract:

The design and need for environmental law was outlined by using a hard and fast of principles and ideas outlined on the way to keep, shield and preserve the environment from diverse types of degradation. In the case of many activities that entail a few trade to the environment, it's far impossible to decide exactly what results in the interest will have on the surroundings or on human health. It's usually not possible to recognize, for instance, whether or not a certain stage of air pollution will result in an growth in mortality from respiratory ailment, whether or not a positive level of water pollutants will lessen fish population, or whether oil development in an environmentally touchy place will appreciably disturb the local natural world. Majority of the industrialists do not understand an improvement in environmental situations as a vital need. If that interest is to be promoted it is not enough to simply remind them in their social responsibilities. Toward this reason the preferred courtroom in 1996 and 1997 brought five landmark judgments¹ adopting the Polluter Pays Principle and the Precautionary Principle in India as an improvement over the legal responsibility principle. The study focuses on the above

¹ Indian Council for Enviro-Legal Action and others v. Union of India, (1996) 3 see 212 , Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 see 647, M.C. Mehta v. Union of India (1997) 2 see 353, M.C. Mehta v. Union of India, (1997) 2 see 411 and M.C. Mehta v. Kamal Nath, (1997) 1 see 388

mentioned cases together with developments in international treaty law with reference to environment protection and compares the two principles.

Keywords

Degradation, Human Health, Pollution, Industrialists, International treaties.

INTRODUCTION:

Human life is, has invariably been, and can invariably be packed with risks. The urge to agitate the risks we have a tendency to face may be a basic condition of our existence. precautionary principle is one amongst the mechanisms and procedures by which potential danger to atmosphere will be alleviated. Right from the independence of India, the applying of precautionary principle wasn't attainable, as a result of India being unreceptive to the price of this principle. India started respecting this principle solely from collaborating in urban center declaration of 1992. However, before 2010, no legislation on environmental protection ever spoke of precautionary principle and its application. Indian Supreme Court, from 1996 accepted the precautionary principle as a part of the law of the land. From this year, most of the environmental cases set applying precautionary principle.

As sometimes we say that 'prevention is better than cure', the precautionary principle runs on this platform only. Based on this fact, the Honourable Supreme Court of India, while deciding environmental cases in India, paid maximum attention to the international regulation and Covenants, which not only declared the importance of precautionary principle, but also provided the avenues how and when this precautionary principle should be used by the nation concerned. This paper aims to bring out the need for precautionary principle and the evolution of same over the years in comparison with the Polluter Pays principle.

Aim of the Study:

1. To understand the origin and history of precautionary principle.
2. To know the five key elements of precautionary principle.
3. To analyse the need for precautionary principle in changing trends.
4. To compare with polluter pays principle in the present scenario.
5. To identify judicial pronouncements related to precautionary principle.

Hypothesis

Null - Developing countries like India do not enforce environmental laws properly.

Alternate - Developing countries like India enforce environmental laws properly.

Research Problem

The difference between 'prevention' and 'precaution' is not known because of inefficiency in implementation.

Research Question

Whether judiciary plays an important role in implementation of environmental legislations?

Research Methodology

In this paper, the researcher has opted for 'doctrinal research methodology' and the sources are collected mainly through secondary data.

Review of Literature:

Precautionary principle is a guiding principle that helps to prevent the activity that posing threat or danger to the environment. It considers the harmful effects before they pursue their activities (Wibisana n.d.). But the precise meaning of the precautionary principle remains unclear. It is the most important new policy approach in the international cooperation and plays a prominent role in national and international policy making. Also, it is the guiding principle for sustainable development (Jaeckel n.d.) The society is preoccupied with change. The precautionary principle seeks to enable ecological balance and bring in benefit to our human society with a strategy to cater to the needs of the present (Fisher & Harding n.d.) Nuclear Energy will continue to stymied until the waste problem is managed. Hence there should be meaningful public participation and independent scientific studies are necessary for ensuring safety (Pyhälä et al. n.d.) State parties should proceed based on Precautionary Principle (Zander n.d.). There must be uniform emission standards with the principle of precautionary action, most importantly of environmental policy There has to be absolute liability for damage to the

environment and whoever responsible should bear the costs associated with it. This enhances the economic activity (Cordato 2006) Factory owners do not perceive an improvement in environment. There must be developments in international treaties in order to improve environmental quality (Sunstein n.d.). Developing countries have made it an obligation to follow the principle. Strong incentives for providing environmentally risky activities and return to original state regardless of the intent has been made clear (Alemanno 2015) State's responsibility for pollution abatement and practical utility of the principle especially in less developed countries (Peterson 2017) The principle implements welfare legislations and regulates the economy with environmental pollution (Craig 2012) Its for remediating land for urban developments (Craig 2006)

THE PRECAUTIONARY PRINCIPLE:

As generally we say that 'prevention is better than cure', the precautionary principle runs on this platform solely. supporting this reality, the Indian Supreme Court, in deciding environmental cases in India, paid utmost attention to international regulation, that not only declared the importance of precautionary principle, however additionally provided the avenues however and once this precautionary principle ought to be utilized by the state involved. (Guest Post 2016)

In India, environmental jurisprudence has been nurtured and developed, considerably, by the Supreme Court. it is as a result of 'right to life' as enshrined underneath article twenty one of the Indian Constitution additionally includes right to pollution free environment, was for the first time recognised by the Supreme Court and expressed that any pollution to environment or degradation to any element of the environment would cause violation of basic right, that is, right to life under article 21. It was not very easy for the Supreme Court to adopt the precautionary principle, as a result of none of the environmental legislations mentioned the applying of precautionary principle in environmental matters. Therefore, the Supreme Court had to deem international regulation, for instance, "World Commission on environment and Development" of 1987 and eventually, Rio de Janeiro declaration of 1992. The central government brought this idea of precautionary principle under National environment Policy of 2006 and explained the circumstances relating to application of this principle for the aim of protecting and conserving

the environment.(Guest Post 2016) Though, the National environment policy mentions the importance of precautionary principle in environmental matters, however environmental legislations, such as, the Water (Prevention and control of Pollution) Act, 1974, the Air (Prevention and control of Pollution) Act, 1981, the environment (Protection) Act, 1986, the Forest (Conservation) Act, 1980, the Wild life (Protection) Act, 1972, et cetera are missing to mention the importance of precautionary principle within the protection of forest and different environmental resources. However, the national green tribunal will apply the precautionary principle to make a decision the environmental cases from 2010. The laws dominant the pollution of water and atmosphere as well as the laws preventing and conserving the forest and wildlife resources area unit comprehensive enough to tackle the case of environmental degradation and answer therefrom, with the assistance of social control machineries mentioned within the various legislation, however this sets of legislations haven't paid attention on the utilization of precautionary principle collectively of the innovative mechanism and procedure to manage the environmental degradation. As generally we are saying that 'prevention is better than cure', the precautionary principle runs on this platform solely. supported this reality, the Indian Supreme Court, whereas deciding environmental cases in India, paid most attention to international regulation, that not solely declared the importance of preventative principle, however additionally provided the avenues how and once this precautionary principle ought to be utilized by the state involved.(Poddar n.d.)

Origin of preventative Principle:

To understand the construct of precautionary Principle, it's vital that we must always bear a quick history of however the precautionary Principle originated. In one amongst the Parliamentary Earth Summit of world organisation Conference on environment and Development, Dalai Lama expressed that Asian nation could also be the first country during which the principle originated as a result of from the seventeenth century itself Asian nation began to take proactive measures thus save the setting.[3] For them, the struggle between protection of setting and safeguard of human health gave rise to the construct.

Under the up to date public policy, this principle may be derived back to the Nineteen Fifties underneath the name of "safe minimum standards of conservation." Some major

environmental problems within the Nineteen Sixties, for example, the pollutant (dichloro diphenyl trichloroethane) case made-up the method for the principle supported the concept of absorptive capability. this idea expressed that environment and humans will tolerate disturbances only to a precise extent, and this quantity may be calculated and ruled. Then within the Seventies, the Germans most likely became the first country to supply for a preventative approach in its legislations and policies towards the protection and therefore the conservation of the environment.

International Perspective:

History of application of precautionary principle may be derived back from 1854, wherever the operating of London pump and unfold of the epidemic was the issue². However, formally the applying of precautionary principle dates back from 1970, wherever in Germany the clean air Act was passed³. There area unit several international regulations⁴, people who not solely declare the preventative principle, however additionally request the collaborating nations to implement this principle in their national laws. Principle 154 of the Rio de Janeiro declaration 1992, clearly states that the collaborating nations should incorporate the preventative principle within the national laws to manage the environmental degradation and this adoption ought to be done as per the capabilities of the individual nations. Moreover, the states mustn't expect scientific certainty to shield the setting from irreversible harm. The United Nations Framework Convention on temperature change through its article 3, provides that the parties to the present

² The Late Lessons from Early Warnings report (Harremoës et al., 2001) mentions the example of Dr John Snow who in 1854 recommended removing the handle of a London water pump in order to stop a cholera epidemic. The precautionary principle developed by world commission on ethics on scientific knowledge and technology, at p. 9, Available at <http://unesdoc.unesco.org/images/0013/001395/139578e.pdf> (last visited on 20.05.2018)

³ In Germany, the PP ('Vorsorgeprinzip') may be traced back to the first draft of a bill (1970) aimed at securing clean air. The law was passed in 1974 and covered all potential sources of air pollution, noise, vibrations and similar processes. The precautionary principle developed by world commission on ethics on scientific knowledge and technology, at p. 9, Available at <http://unesdoc.unesco.org/images/0013/001395/139578e.pdf> (last visited on 20.05.2018)

⁴ Within the United Nations system, the PP is included in the 1992 Rio Declaration on Environment and Development, and in the United Nations Framework Convention on Climate Change. Later, the PP was incorporated into the article on precaution (Article 5.7) of the World Trade Organization's (WTO) Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) of 1994, as well as into the Biosafety Protocol that was approved in Montreal in January 2000. The precautionary principle developed by world commission on ethics on scientific knowledge and technology, at p. 8, Available at <http://unesdoc.unesco.org/images/0013/001395/139578e.pdf> (last visited on 20.05.2018)

convention mustn't be against any temperature change problems and may foresee and minimise the impact of these factors that area unit answerable for climate change⁵. The agreement on hygienic and phytosanitary measures of the planet Trade Organisation, through Article 5, delineate the importance of precautionary principle. It suggests that just in case of scientific uncertainty with relevancy food grade and safety, conditional measures may be taken by the nations. Finally, objective one seven of the Cartagena protocol on safety to the convention on biological diversity of the year 2000, clearly mentions that the precautionary approach ought to be adopted by the collaborating nations, as per the mandate of principle fifteen of metropolis declaration 1992, for safe handling, transportation of feat changed organisms which is able to be the results of application of recent biotechnology. it's fascinating to notice here that, within the year 2006 Ministry of setting and Forest, government of India pronounced the national environment policy, during which precautionary principle was adopted as a guideline for preservation of environmental resources.

Environmental policy:

India, for the first time, introduced a really comprehensive policy on environmental preservation and management of pollution within the year 2006⁸. within the policy document, numerous principles⁶ were initiated and delineate for the aim of protective numerous environmental parts. In which, preventative approach⁷ has been created collectively of the principles. in step with this principle, the state can need to take specific measures for the protection of the setting though there's absence of scientific evidences that there'll be serious irreversible harm to bound however key environmental resources attributable to action or inaction of any parties. The principle emphasises on, not suspending or delaying to require

⁵ Article 3 (3)- UNFCCC- The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects

⁶ For example: human being at the centre of sustainable development, right to development, environmental protection is the integral part of developmental process, precautionary approach, economic efficiency, polluter pays, cost minimisation, entities with incomparable values, Equity, legal liability, fault-based liability, strict liability, public trust doctrine, decentralisation, integration, environmental standard setting, preventive action, environmental offsetting; Pp 13- 14, National environment policy, 2006. Available at <http://www.moef.gov.in/sites/default/files/introduction-nep2006e.pdf> (Last visited on 20.05.2018)

⁷ Principle IV- The precautionary approach -Where there are credible threats of serious or irreversible damage to key environmental resources, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

measures for environmental protection if there's any apprehension of irreversible harm to be caused attributable to bound action of any legal entity. However, there's no direct finding of this precautionary principle in environmental legislations in India. Therefore, excluding National inexperienced assembly Act of 2010, there aren't any environmental legislations, that embody precautionary principle as a statutory principle.

Environmental Legislations:

The Water (Prevention and control of Pollution) Act, 1974 doesn't give any specific provision on precautionary approach. during this legislation implicit which means of preventive approach has been incorporated. for instance, the social control agencies, that is, central pollution control board⁸ and state pollution control board⁹ shall be established under this legislation. totally different functions¹⁰ are obligatory each on central pollution control panel and state pollution control panel under this Act, which might be thought of because the example of precautionary approach. The pollution control board is authorised under this legislation to form entry inside the commercial premises and inspect¹¹ the documents and different industrial activities to make sure that there ought to be management of pollution. there's a particular provision in this Act, that prohibits any activity to deposit pollution within the water bodies, for instance, water of the wells and streams¹². The implicit precautionary approach can be found with relevancy restrictions obligatory on new outlet and new discharges of trade effluents¹³ and therefore the legislation also deals with the regulation of existing outlet and management of trade effluents¹⁴. The Air (Prevention and management of Pollution) Act, 1981 is another legislation wherever there's no specific provision coping with precautionary approach. Though, there area unit several provisions that area unit exhibiting the indirect which means of precautionary approach. for instance, the social control agencies, such as, state pollution control board¹⁵ and central pollution

⁸ Section 3, The Water (Prevention and Control of Pollution) Act, 1974

⁹ Section 3, The Water (Prevention and Control of Pollution) Act, 1974

¹⁰ Sections 16 and 17, The Water (Prevention and Control of Pollution) Act, 1974

¹¹ Section 23, The Water (Prevention and Control of Pollution) Act, 1974

¹² Section 24, The Water (Prevention and Control of Pollution) Act, 1974

¹³ Section 25, The Water (Prevention and Control of Pollution) Act, 1974

¹⁴ Section 26, The Water (Prevention and Control of Pollution) Act, 1974

¹⁵ Section 4, the Air (Prevention and Control of Pollution) Act, 1981

control board¹⁶ shall be established to make sure that there ought to be correct dominant of part pollution. Similarly, the precautionary approach also can be proved, impliedly, with relevancy specific functions for the central¹⁷ and state¹⁸ pollution control panel as given in this legislation. State governments will declare a particular space of town as pollution management area¹⁹. Regarding, dominant the emission standards from of the vehicles²⁰, the authorities is authorised underneath this legislation to require applicable steps and measures. under this law nobody or business shall be entitled to travel on the far side the prescribed normal of emissions²¹. Therefore, these provisions area unit the instance of implicit precautionary approach as mentioned in this legislation. The setting (Protection) Act, 1986 is taken into account to be the umbrella legislation in India, because, most of the foundations framed for dominant environmental pollution of its totally different parts, are framed underneath the provisions of this legislation. The central government is empowered²² underneath this law to require all the preventive measures for the protection and promotion of setting. under this law, there's a provision to border the foundations to control numerous sorts of environmental pollution. Moreover, the central government enjoys the facility underneath this law to form numerous Rules³³ to mitigate most of the environmental crisis which may occur in future. this is often nothing however the implicit which means of precautionary approach underneath this law. it's necessary to say here that, though, from the on top of discussion it's clear that there's no direct provision out there in any of those environmental legislations concerning preventative approach, however the National inexperienced assembly Act, 2010 provides associate specific provision concerning precautionary principle²³, that the assembly will think about whereas delivering award/order to any environmental case. Now, it becomes necessary to grasp that however the honourable Supreme Court in India brought this idea of precautionary principle to mitigate future environmental crisis.

Judicial Pronouncements:

¹⁶ Section 3, the Air (Prevention and Control of Pollution) Act, 1981

¹⁷ Section 16, the Air (Prevention and Control of Pollution) Act, 1981

¹⁸ Section 17, the Air (Prevention and Control of Pollution) Act, 1981

¹⁹ Section 19, the Air (Prevention and Control of Pollution) Act, 1981

²⁰ Section 4, the Air (Prevention and Control of Pollution) Act, 1981

²¹ Section 22, the Air (Prevention and Control of Pollution) Act, 1981

²² Section 3, The Environment (Protection) Act, 1986

²³ Section 20, the National Green Tribunal Act, 2010

Right from the time, the Bhopal gas tragedy of 1984 and in real time thenceforth the oleum gas leak incident of 1985 at national capital, it absolutely was quite tough for the Supreme Court in India to search out the suitable principle or theory supported that while not anticipating scientific evidences the govt. machinery will take preventive measures, if there are apprehensions of irreversible harm to the setting. When virtually a decade with a protracted struggle, the Supreme Court in Vellore voters thirty five case finally analysed the precautionary principle and expressed that this principle is an element of the law of the land. During this case, the Supreme Court analysed the construct of precautionary principle and processed that this principle within the domestic law would mean first, environmental measures, which implies that the authorities or the statutory agency can foresee the environmental degradation and can forestall such degradation by assailing the cause. (Poddar n.d.) Secondly, the state agency or the social control agencies shall not expect scientific proof to point out that there'll be irreparable harm to the setting and while not anticipating such scientific documents the agencies shall take applicable measures to shield the setting. Thirdly, the burden of proof shall not be with the plaintiff, however are on the respondent to prove that its action is setting friendly. The Supreme Court additionally expressed that the plain reading of the provisions of Articles 21, 47, 48A and 51A (g) of the Indian Constitution, provide the indication that the precautionary principle is an element of the law of the land. Moreover, the apex court additionally mentioned that albeit there's issue to grasp the constitutional mandates and linkage with precautionary principle, it'd be convenient to grasp that since, precautionary principle is an element of the international customary law, therefore, such principle not solely may be incorporated within the domestic law for the protection and preservation of natural environment, however additionally the domestic judicial organ will apply this principle for environmental protection functions. From this finding, the honourable Supreme Court failed to recollect to clarify further the position of pertinency of precautionary principle in India to make a decision environmental matters and began nurturing this principle in variety of subsequent cases for undefeated arrange to defend and preserve natural environment.

The honourable Supreme Court, from the year 1996 endlessly applied the preventative principle for cover and preservation of setting. Few of the necessary environmental matters and cases therefrom are represented below to point out however the principle of preventative

approach has been with success applied for delivering environmental Justice in India. within the analysis Foundation thirty six case, the honourable Supreme Court expressed that ship breaking can not be allowed unless the corporate adheres to the preventative principle. within the Court on In its Own Motion thirty seven case, the apex court clearly expressed that precautionary principle belongs to the core price of article twenty one of Indian Constitution. In state Mining thirty eight case, it absolutely was expressed by the forest consultatory committee before the apex court that precautionary principle is that the solely principle out there to see the irreversible harm to the setting. In G. Sundarrajan thirty-nine case, the Supreme Court expressed that precautionary principle is applicable to stop the longer term environmental degradation. The preventative principle in conjunction with different international environmental principles may be of abundantly facilitate for implementation of national policy to develop, management and use of nuclear energy for the world and for money development of the country. In State of tamil nadu 40 case, it absolutely was expressed by the apex court that the applying of precautionary principle suggests that there should be scientific uncertainty relating to irreversible harm to the environment, therefore, competent public authority should anticipate and prevent such harm by assaultive the cause for such environmental harm. Therefore, in most of those cases the honourable Supreme Court has additional analysed the construct of precautionary principle and applied in several circumstances for preventing the environmental damage.

THE POLLUTER PAYS PRINCIPLE:

Origin:

The polluter pays principle (PPP) was initially mentioned within the recommendation of the OECD of 26th could 1972 and reaffirmed within the recommendation of fourteenth November 1974. in the 1972 Declaration of the world organization Conference on the Human atmosphere in capital of Sweden the principles failed to feature, however in 1992 in Rio de Janeiro PPP was arranged down as Principle sixteen of the United Nations Declaration on atmosphere and Development.(Trehan & Mandal n.d.) The EU Community took up the OECD recommendation in its initial Environmental Action Program (1973-1976) then in a very Recommendation of three March 1975 concerning price allocation and action by public authorities on environmental matters. Since 1987 the principle has conjointly been enshrined

within the accord of the European Communities and in various national legislations worldwide. (Clark 2012)

Evolution of the concept in India:

Despite the potential that the bad person pays principle holds to shield the atmosphere, it absolutely was not a part of the law in India until it absolutely was invoked within the *Enviro-Legal Action case*²⁴ as late as 1996. During this case the court affirmed the principle of absolute liability as expressed within the *Oleum Gas Leak*²⁵ case and extended it. The court arranged down, "The bad person pays principle demands that the monetary prices of preventing or remedying the injury caused by pollution ought to lie the undertakings that cause the pollution or turn out the that cause the pollution." The judgement of the higher than case on tetrahydrocannabinol polluter pays principle and also the justification for invoking it absolutely was reaffirmed by another Bench in 1996, within the case of *Vellore citizens Welfare Forum v. Union of India*²⁶ In these cases the employment of the bad person pays principle has been even via the constitutional mandate²⁷ statutory provisions²⁸ and international customary law. IO

Meaning and performance:

The 'polluters pays' principle is that the usually accepted apply that those that turn out pollution ought to bear the prices of managing it to forestall injury to human health or the atmosphere. For example, a industrial plant that produces a doubtless substance as a byproduct of its activities is typically command chargeable for its safe disposal.

This principle underpins most of the regulation of pollution touching land, water and air. Pollution is outlined in United Kingdom law as contamination of the land, water or air by harmful or doubtless harmful substances.

²⁴ Indian Council for Enviro-Legal Action v. Union of India. (1996) 3

²⁵ M.C. Mehta v. Union of India, (1987) 1

²⁶ Ibid. , hereinafter referred to as the Oleum Gas Leak Case. (1996) 5. In this case tanneries and other industries in the state of Tamil Nadu were discharging untreated effluents into the agricultural fields, roadsides, waterways and open lands. The untreated effluents were finally disch

²⁷ Under Article 21, Article 47 and Article 51A(g) of the Indian Constitution.

²⁸ The Water Act, 1974, The Air act, 1981 and The Environment Protection Act, 1986

Part of a group of broader principles to guide property development worldwide (known because the 1992 metropolis Declaration), the polluter pays principle has conjointly been applied a lot of specifically to emissions of greenhouse gases that cause global climate change.

Greenhouse gas emissions measure about a kind of pollution as a result of they cause potential hurt and injury through impacts on the climate. However, during this case, as a result of society has been slow to recognise the link between greenhouse gases and global climate change, and since the atmosphere is taken into account by some to be a 'global commons' (that everybody shares and features a right to use), emitters square measure usually not command chargeable for dominant this manner of pollution.

However, it's doable to implement the 'polluter pays' principle through a questionable carbon value. As we'll discuss in future queries during this series, this imposes a charge on the emission of greenhouse gases such as the corresponding potential price caused through future global climate change. during this approach, a monetary incentive is made for a industrial plant, for example, to minimise its prices by reducing emissions.

CONCLUSION:

It may be concluded that among different global environmental law concepts, the precautionary principle is the best precept which has the capability to foresee viable serious and irreversible harm to environment. It's also clean that environmental legislations in India are not very open to expressly display the presence of precautionary principle, however in a roundabout way with diverse provisions they communicate of precautionary method most effective. Worldwide regulation of precautionary principle, although, has no longer been accepted beneath legislation, however has located a place in countrywide environmental coverage. What's noteworthy right here is that Indian ultimate courtroom, when found that environmental law cannot be of any help to decide the environmental damage which may be of irreversible nature, it's miles the precautionary principle which no longer best may want to foresee such irreversible damage to the environment, but also shifted the load of evidence from complainant to respondent. It is also exquisite to be aware that the ideal courtroom in India, where based on the applicability of precautionary precept, the environmental Justice become promulgated. The journey of nurturing the precautionary precept, although, started from the Vellore residents case,

but will ought to pass many miles further to ensure the protection and preservation of natural surroundings.

The decisions of the supreme court certainly go a protracted manner in reaffirming the dedication of the judiciary in protecting the environment and remedying the unwell-effects of pollutants. But, the courtroom has erred within the way in which it has followed the polluter can pay principle, as one in every of international commonplace regulation without demonstrating how the principle genuinely fits into the ambit of global regulation.

The drawbacks of the polluter can pay principle as laid down by the supreme court are that there may be no gradation system prescribed in order that the Polluter pays precept also can have a deterrent impact at the industries. It's miles crucial for it to be financially unviable to violate environmental safety legal guidelines. Therefore similarly to comparing the fee of reparation of the damage, the dimensions of the industry need to also be considered so that the penalty may be graded as a consequence. This is the only manner to make certain that the polluter pays precept could have a deterrent impact on huge industries, as regularly the harm to the surroundings is irreparable. Despite the fact that, the polluter pays principle has set the level for efficiency primarily based environmental management, thru the use of marketplace mechanisms. The authors have identified three challenges that need to be countered to make the polluter can pay principle powerful, that the ideally suited courtroom did now not deal with

- 1) To expand scientific strategies to decide the potential fees of uncertainty vis-a-vis environmental damage.
- 2) To modify incentives in order that the right events pay the value of this uncertainty.
- 3) To provide suitable incentives to reduce the negative outcomes of the excessive threat pastime

As strict legal responsibility for environmental damages becomes the norm, clairvoyant companies ought to take measures to protect themselves. The polluter will pay principle is an improvement on strict liability as it explicitly moves the prices to the prevailing wherein they may have a extraordinary deal of effect on decision making. In lieu of the common sense, fairness and performance of the polluter can pay principle, it guarantees to be each realistic and viable in helping us keep off the upcoming environmental crisis. Hence, Hypothesis disproved that developing countries like India do not enforce environmental laws properly.

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