

Precautionary Principle

Before Precautionary Principle the concept of assimilative capacity was prevailing which was provided by Principle 6 of the Stockholm Declaration of 1972 (U.N. Conference on Human Environment).

Principle 6 of this Declaration says: 'The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon eco-system.' This principle of assimilative capacity 'assumed that science could provide policy makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it is presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm.'

Later on the 'Precautionary Principle' approach was emphasized and the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982 emphasized for 'Precautionary Principle' in place of assimilative capacity principle. Ultimately the Earth Summit - Rio de Janeiro Conference of 1992 declared it in unequivocal terms.

Precautionary Principle is basically a rule of evidence and particularly it deals with the burden of proof in environmental cases. This principle shifts the burden on the polluter (individual/industrialist/entrepreneur) to prove that his activity/process/industry/operation is not a health hazard, damaging the environment and his action is "environmentally benign."

In Vellore Citizens' Welfare Forum v. Union of India, Justice Kuldeep explained the 'precautionary principle' as

"The Precautionary Principle' in the context of municipal law means:

- (a) Environmental measures—by the State Government and statutory authorities—must anticipate, prevent and attack the cause of environmental degradation.
- (b) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (c) The 'onus of proof' is on the actor or the developer/industrialist to show that his action is environmentally benign.