

# **Principles and Norms of International Environmental Legislation: A pathway to Climate Justice**

**BY: Patrick Byakagaba, Ph.D.**



# Introduction

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macro statement that provides a general guide to a course of action  
about what ought to be done.

A principle is often understood as a value

A norm is a standard way of behaving, or an accepted standard.

# Principles and Norms of International Environmental Legislation: A pathway to Climate Justice

**1. The- Polluter-Pays Principle** -The party responsible (person/firm) for causing pollution should pay for the damage done to the natural environment (“If anyone intentionally spoils the water of another . . . let him not only pay damages, but purify the stream or cistern which contains the water.” The Dialogues of Plato’s )

The entity that has contributed to pollution is expected to bear the costs of managing it to prevent damage to human health or the environment

The polluter should bear the expenses of carrying out pollution prevention measures or paying for damage caused because the environmental costs of production were not internalized.

The ‘Polluter Pays Principle’ exposes the polluter to two fold liability namely: (i) Compensation to the victims of pollution; and (ii) Ecological restoration

The person or persons responsible for pollution (the polluter) should pay for the costs of dealing with that pollution (reducing, preventing or eliminating the pollution)

Liability induces the responsible party to internalize the full social cost of his activity, thereby bringing the environmental harm down to the optimal level



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This principle promotes efficient resource use and avoiding trade and investment distortions

An example is the environmental taxes on Petroleum products and plastic bags

It was conceived as a check against socialization of environmental costs and privatization of benefits

It requires monetary valuation of environmental damages in order to determine what the polluter should pay for the environment

The payment should demonstrate internalization of the true costs of environmental damage, so that prices reflect the real environmental costs of damage

PPP seeks to assign responsibility to a polluter and to hold him accountable for the pollution he has created in order to avoid passing on costs to third parties who did not contribute to the creation of that pollution

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**2. The Precautionary Principle** –It ensures that a substance or activity posing a threat to the environment is prevented from adversely affecting it, even if there is no conclusive scientific proof linking that particular substance or activity to the environmental damage.

- When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically
- Lack of full scientific certainty can not be used as a reason for postponing cost-effective measures to prevent environmental degradation
- The state does not wait for proof of harm before taking action.
- It has 4 components: taking preventive action in the face of uncertainty; shifting the burden of proof to the proponents of an activity; exploring a wide range of alternatives to possibly harmful actions; and increasing public participation in decision making
- It is mandatory to limit, regulate, or prevent potentially dangerous actions before scientific proof is established
- An example is Mobile phone transmission masts, electricity pylons

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**3. The principle of preventive action-** A state has the obligation to prevent damage within its own jurisdiction

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Action should be taken at an early stage to reduce pollution, rather than waiting to restore contaminated or degraded areas

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To implement this, states use established authorization procedures, environmental standards, the use of penalties, and the need to carry out environmental impact 'assessments



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**4. The Public Trust Doctrine** – It promotes the value that certain resources are preserved for public use, and that the state is required to maintain them for the reasonable use of the public

- certain resources such as air, water bodies, shores, and the forests are very important to the people as a whole that it would be wholly unjustified to make them a subject of private ownership
- Resources meant for public use cannot be converted into private ownership.
- The state or governmental authority, acts as trustee, with a duty of stewardship of the public's 'environmental capital/resource'.
- These resources must be held in trust by the state for the benefit and use of the general public.
- This public includes current and future generations.
- The State must not alienate trust property unless the public benefit that would accrue outweighs the loss of the public use or 'social wealth' derived from it
- In some countries these resources are mentioned in the Constitution as held in trust

**Restrictions on the state:**

**Principles and  
Norms of  
International  
environmental  
legislation**



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**5. Principle of sustainable Development** - development that meets the needs (in particular the essential needs of the world's poor) of the present without compromising the ability of future generations to meet their own needs.

It imposes the idea of limitations on the environment's capacity to meet present and futures needs.

It has three elements i.e., Intergenerational Equity, Sustainable Use of Natural Resources, Integration of environment and development



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*Intergenerational Equity*- It is each generation's responsibility to leave an inheritance of wealth no less than what they themselves have inherited.

***Integration of environment and development*** -This requires integrating the cost of environment on development.



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**6. Common but differentiated responsibilities-** This principle acknowledges that certain environmental risks are “common” i.e., affect every nation on earth and therefore all nations have a responsibility to address them. The responsibility should however be “differentiated” i.e., not all countries should contribute equally.

- Certain nations particularly the rich should carry a greater share of the burden than the poor.
- This is because of the different development paths that each country experiences some countries may be asked to carry more of the burden of conservation.
- States should comply with international obligations for the conservation of the environment on the basis of equity and in accordance with their common but differentiated responsibilities and respective capacities

# Principles and Norms of International environmental legislation

This principle is provided for mainly in multi-lateral environmental agreements such as the United Nations Framework Convention on Climate Change (UNFCCC)

It is also acknowledged in the Rio Declaration in principles four and seven

- There are 2 elements in this principle: common responsibility of states for the protection of the environment i.e., states should participate in the world effort for conservation and elucidation of the different circumstances of states e.g., industrialized countries have contributed more to the global warming than underdeveloped countries

**7. Stakeholder engagement** - Involvement of stakeholders in climate legislation is a common principle in nations that believe in democracy. It can result into better and legitimate laws and thus foster compliance

# Conclusion

The legal interpretation and implications of these principles remain open

They vary from one jurisdiction to another

Most of them are shaped by international commitments on environment

The decision of courts contribute to the codification of these principles in national legislation and can significantly contribute to climate justice