

ABSTRACT

The Deep Rationality of the Precautionary Principle

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The precautionary principle has been criticized as an incoherent departure from strict cost-benefit analysis, and as a product of various unfounded psychological biases, including exaggerated fears of the new or unknown or the non-“natural.” Using products containing untested industrial chemicals and nanotechnology as a principal example, this Essay argues that there is a deep rationality embedded in the precautionary principle’s call to pay particular attention to uncertain, but potentially huge, risks from newer or new technologies. The principle is a “rational” counterweight to two dynamics that tend to produce sub-optimal study and regulation of risks from new or new technologies. First, as a matter of the heuristic bias of loss aversion, people tend to prefer the avoidance of certain relatively small losses over uncertain larger losses even when a risk-neutral calculus (let alone a risk-averse one) would favor preference for the avoidance of the larger uncertain loss. Second, as a matter of narrow economic self-interest, those parties who are in the best position to identify possible risks regarding new technologies – their inventors and producers – have a very strong incentive not to learn about such risks. A flexible version of the precautionary principle counters these two dynamics by requiring at least some testing and disclosure of product risks and safety prior to the establishment of widespread use of the product containing new or newer technology.

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