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ASSESSING ABSOLUTE LIABILITY VERSUS STRICT LIABILITY IN MARINE OIL POLLUTION CASES: LEGAL IMPLICATIONS AND ENVIRONMENTAL IMPACT

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The maritime environment is vital to the maintenance of both economic activity and world biodiversity, yet it is becoming more and more endangered due to oil pollution from oil spills and leaks. Legal frameworks governing liability and compensation for oil spills have gained relevance as environmental accidents involving pollution continue to pose serious hazards to marine ecosystems. The purpose of this essay is to investigate the ideas of strict liability and absolute culpability, looking at their relevance and ramifications in situations of marine oil contamination. In terms of environmental law, "absolute liability" refers to the legal doctrine that holds parties accountable for damages regardless of negligence or malice. When actions seriously endanger the environment or public safety, this theory is frequently applied.

This study attempts to assess the efficacy of strict liability and absolute liability in managing pollution caused by oil escape or discharge in the maritime environment by examining precedent-setting cases and current legal standards. It will take into account how each framework affects compensation for impacted populations and ecosystems, impacts environmental legislation, and influences the actions of oil companies.

The results will provide information on the benefits and drawbacks of each legal strategy, indicating which liability regime could be better suitable for enforcing strict liability rules and guaranteeing strong environmental protection for the maritime sector. The paper's ultimate goal is to further the current discussion on efficient legal frameworks for controlling environmental risks in the context of maritime oil contamination.

Keywords: Absolute, Marine, Liability, Pollution, Strict.

I. INTRODUCTION

The ocean's ecosystem is vital to life as we know it, with fishing, tourism, and international trade generating significant economic gains for the region. That being said, pollution—especially from oil spills—is becoming a bigger danger to this ecosystem. The spillage or leakage of oil into oceans and seas can have disastrous effects, resulting in permanent ecological harm, a decline in biodiversity, and significant effects on coastal populations. As a result, there has been close examination of the legislative

frameworks controlling pay and responsibility for these kinds of situations.

Strict Liability and Absolute Liability are the two main legal doctrines that govern situations of marine oil contamination. Although both ideas seek to lay down blame for environmental damage, they diverge in how they go about establishing guilt and in what ways defendants could raise defenses. Under the strict criteria for absolute liability, the responsible party is held accountable without regard to mitigating circumstances and regardless of negligence or intent. Although Strict Liability does not absolve

parties of duty, it does permit some exceptions, such as natural disasters or outside intervention, which may restrict the extent of liability.

A thorough examination of both legal frameworks is necessary to determine which concept is more useful in tackling marine oil pollution. This examination should include an examination of the frameworks' historical development, current applications, and wider implications for environmental law and policy. The concept of absolute liability arose from the realization that some actions are intrinsically dangerous and call for a greater standard of accountability in order to safeguard the interests of the public. It has been used in situations involving extremely dangerous operations, when there is a considerable risk of injury despite the best safety measures. Strict Liability, on the other hand, provides a more equitable solution by taking the incident's circumstances into account and permitting a small number of defenses to lessen liability.

In order to better understand the nuances of Absolute Liability and Strict Liability in the context of marine oil contamination, this study will examine the historical and modern legal cases that have influenced these ideas. We can determine the advantages and disadvantages of each liability framework by looking at well-known oil spill cases and the ensuing judicial decisions. The international perspective will also be discussed in this paper, with particular attention paid to agreements that create a worldwide framework for handling oil pollution liability, such as the International Convention on Civil Liability for Oil Pollution Damage (CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention).

The introduction lays the groundwork for a more thorough study of the applicability of both strict liability and absolute liability in situations involving maritime oil pollution. Finding the principle that best ensures environmental

accountability, encourages responsible behavior from oil firms, and adequately compensates those impacted by oil spills is the ultimate goal. The results of this analysis will provide insights into how legal systems might more effectively manage the complex issues of marine oil pollution in a world that is changing quickly, and they will also contribute to continuing discussions in environmental law and policy.

II. Strict Liability in Marine Pollution

In the context of maritime pollution, "strict liability" refers to a legal doctrine that holds parties accountable for losses brought on by their actions, regardless of carelessness or malice. This method is used in situations where some activities—like oil transportation, offshore drilling, or other risky maritime operations—by their very nature entail a great deal of risk. Even though they took every reasonable care to prevent it, the responsible party is nevertheless liable under strict liability for any spills or environmental damage. This idea stems from environmental protection, where the intention is to make sure that people who participate in potentially dangerous activities pay for any harm or accidents.

There are particular requirements and restrictions on the application of strict liability. It necessitates a distinct relationship—often referred to as causation—between the action and the harm produced. In addition, the damage must have resulted directly from the behavior in question; intent is not a consideration in this. Furthermore, some defenses, such acts of God or outside intervention, can restrict strict liability. These defenses, however, are applied narrowly so that businesses and individuals cannot simply escape accountability for pollution.

Strict Liability has been applied historically in a number of environmental cases, offering a solid foundation for holding people responsible for pollution and environmental harm. International treaties like the International Convention on Civil

Liability for Oil Pollution Damage (CLC), which impose severe obligation on shipowners in the event of an oil leak, have benefited greatly from its involvement. This framework has aided in streamlining the compensation procedure for impacted parties and promoting accountability among businesses involved in risky maritime operations. Legal systems seek to discourage risky behavior and guarantee that people who disrupt the marine environment face financial consequences by enforcing Strict Liability. By placing a strong emphasis on accountability, lessening the onus of proof on victims, and encouraging preventive actions inside enterprises that may have an adverse effect on marine ecosystems, this strategy advances more general environmental aims.

Blackburn J. developed the theory of strict liability in the *Rylands v. Fletcher*¹⁶¹⁰ case. He believed that strict liability constituted a distinct area of tort liability, distinct from torts involving negligence, nuisance, etc. Its foundation is the legal dictum "sic utere tuo ut alienum non laedas," which states that one has the right to utilize one's own property without causing harm to another's property. He said that anything that a person gathers, stores, or uses on their property and that could escape and cause trouble should be held there of their own volition. In the event that such an item escapes and causes harm, the individual responsible will have to face consequences.

Therefore, based on specific defenses, the strict responsibility principle grants the owner of the property or land where the item likely to cause trouble has escaped the power to lessen or waive the amount of duty imposed on him to compensate for the losses. These defenses include the Act of God defense, which can be defined as any event that happens that is not under human control, such as snowstorms, cloudbursts, earthquakes, tornadoes, cyclones, etc.; the Act of Third Party defense, which can only be used if it can be demonstrated that the defendant took action and used reasonable

care to stop the harm that was caused by the actions of such a third party, the plaintiff's consent defense, which is predicated on the legal precept of "volenti non fit injuria," according to which the plaintiff is barred from suing the defendant for any activities to which he has consented. The last defense is the plaintiff's default defense, which applies when the plaintiff damages any property due to his own carelessness and is thus unable to sue the defendant for damages.

III. Absolute Liability in Marine Pollution

Under the legal doctrine of absolute liability, one is solely liable for damages resulting from conduct that are inherently dangerous, even in the absence of proof of negligence or intention. When it comes to instances of marine pollution, this idea is crucial, especially when the source is the spill or escape of oil into the marine environment. The notion that certain actions pose serious dangers to the environment and public safety by definition is the foundation of absolute liability. Because of the possibility of catastrophic spills that might destroy ecosystems, impair economies, and have an adverse effect on human health, the handling, storage, and transportation of oil carry significant hazards in the context of maritime pollution. Legal systems guarantee that those culpable for pollution are held accountable,¹⁶¹¹ irrespective of the circumstances leading up to the incident, by applying Absolute Liability to these activities. Unlike Strict Liability, this concept does not provide any defenses, which means that the responsible party is nonetheless accountable for any damages even if the spill is caused by unanticipated circumstances like natural disasters or outside meddling. This stringent stance serves as a potent deterrent, motivating businesses to take all reasonable steps to prevent spills and guaranteeing that those harmed by pollution have an easy way to

¹⁶¹⁰ (1868) LR 3 HL 330

¹⁶¹¹ Bharat Parmar & Ayush Goyal, Absolute liability: The Rule of Strict Liability in Indian Perspective, Manupatra, Articles Section, last visited 26th April 2024, 12:40pm, <http://docs.manupatra.in/newslines/articles/Upload/2D83321D-590A-4646-83F6-9D8E84F5AA3C.pdf>

get compensation without having to prove their case.

International agreements such as the International Convention on Civil Liability for Oil Pollution Damage (CLC) and national environmental laws, which impose stringent regulations on oil companies, tanker operators, and other entities engaged in oil-related activities, support absolute liability in cases of marine pollution. This framework incentivizes these businesses to invest in risk management and preventive measures by guaranteeing that they share the financial burden of cleanup, restoration, and compensation for damages resulting from oil spills. In the end, Absolute

Liability emphasizes accountability and promotes a corporate responsibility culture inside the oil business, all of which are in line with larger environmental goals. This strict legal strategy not only helps victims of marine pollution get justice, but it also emphasizes how important it is to have strong regulatory monitoring in order to save our oceans and coastal communities.

In the cases of *MC Mehta v. Union of India*¹⁶¹² and *Union Carbide Corporation v. Union of India*¹⁶¹³, the Honorable Supreme Court established the principle of absolute liability by observing that, depending on the gravity of the defendants' actions, the limit of liability imposed against them had to be extended. Therefore, in order for any of the defenses allowed by the strict liability rule to be invoked, the defendant must compensate for any losses or harm suffered by others under the concept of absolute liability. Regarding the concept of absolute liability, no defense can shield the defendant from such liability because, even if the defendant had exercised reasonable care or taken precautions to prevent the damage, the extent of the harm caused is extremely high and dangerous. In order for the principle of absolute liability to be applicable, businesses engaged in hazardous or inherently dangerous activities should be

included; the defendant should not be supported by any defenses provided by the strict liability principle; and the principle may be applied in situations involving both natural and non-natural uses of land.¹⁶¹⁴ When it comes to environmental challenges and matters, the polluter pays principle forms the basis of both strict liability and absolute liability theories. Therefore, regardless of the intention, the principle suggests holding the polluter or the involved enterprise accountable for the pollution generated and mandating that they make amends and restore the environment to its pre-pollution condition.¹⁶¹⁵

IV: International Legislation to protect the Marine Environment

When oil spills or other pollution accidents occur in marine ecosystems, a strong framework for accountability and compensation is established by international rules pertaining to marine pollution and the strict liability concept. The obligations of the parties engaged in such situations are outlined in a number of conventions and agreements, which offer a clear legal framework to resolve the complications of cross-border maritime pollution.

The promotion of international treaties and accords pertaining to marine pollution has been greatly aided by the International Maritime Organization (IMO), a specialized agency of the United Nations. The International Convention for Prevention of Pollution from Ships (MARPOL), which handles several forms of maritime pollution, including oil discharges, chemical pollutants, and waste from ships, is one of the frameworks that the IMO has established in addition to the CLC and FUND agreements. These globally legal frameworks offer a thorough method for handling instances of marine pollution. These treaties foster responsibility and responsible behavior among marine operators by placing stringent

¹⁶¹⁴ *MC Mehta v. Union of India*, supra note 3.

¹⁶¹⁵ Rupin Chopra, *India: Polluter Pays Principle*, Lexology, November 10, 2017, <https://www.lexology.com/library/detail.aspx?g=c832a88c-7f8c-4628-bb96-c3e7d9189b2d>

¹⁶¹² 1987 SCR (1) 819

¹⁶¹³ AIR (1989) (1) SCC 674

obligation on shipowners and guaranteeing sufficient financial resources for compensation. Additionally, they stimulate international cooperation in tackling environmental concerns in maritime contexts and facilitate the resolution of disputes involving pollution across national borders.

- **INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE (CLC):**¹⁶¹⁶

The IMO developed a convention to guarantee the provision of sufficient compensation to those who sustain harm as a result of oil pollution in marine areas, leading to maritime tragedies caused by oil-carrying ships. Shipowners are subject to strict liability for claims made against them; however, defendant vessel owners have the power to limit their liability by demonstrating the application of any applicable exceptions. permits them to insure against liability or provide financial assistance equal to the maximum amount of liability that could arise from a single incident. The 1992-adopted Protocol has superseded the original convention, bringing about significant modifications to the convention's implementation.

- **INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MARPOL):**

This international convention was ratified by the International Maritime Organization (IMO) in 1973 with the aim of preventing pollution in marine areas caused by ships, either intentionally or accidentally. It includes a list of some of the main pollutants that are caused by ships, such as oil, noxious liquids, hazardous materials in packaged form, sewage, garbage, and so on. The term "operational" in this context refers to any activity that releases pollutants into the water, regardless of the method of disposal, as specified by Article 2(3) of the Convention. "Discharge" denotes the release of pollutants into the water.

- **INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE (FUND)**¹⁶¹⁷

The convention functions in addition to the CLC, which was created and approved on December 18, 1971. The fund's primary goal is to cover the compensation that shipowners are compelled to pay to States and individuals who experience environmental damage, in cases where the amount of compensation provided is insufficient to fully compensate for the harm caused by the pollution or the individual is not eligible for any compensation at all. Despite the Fund's restricted responsibilities, States that sustain harm may even be eligible for compensation that goes beyond the shipowner's culpability. The Fund will be held fully liable in the event that the vessel owner is unable to make up for the damages sustained. In these situations, the Fund's duty or cap on the amount of compensation it must pay out will be raised. The Fund's duty to compensate damages mostly relates to pollution harm inflicted on the marine environments of the Contracting States. Additionally, the convention must support these States in the event that they feel endangered or could be negatively impacted by pollution and would like to take significant action to stop or lessen the harm.

VII. Provisions in Constitution of India and Statutes help maintains Marine Pollution;

- **Constitution of INDIA:**

Article 253 of the Indian Constitution grants the Parliament the authority to enact treaties, agreements, or conventions with other nations, as well as to implement any decisions that may be ratified by them in international conferences, associations, or bodies. The powers granted to the Parliament or the Union government under Entries 14 and 10¹⁶¹⁸ of the Union List are read in conjunction with this article. Furthermore, the Legislation has the authority to enact laws and

¹⁶¹⁶ International Maritime Organization, <https://www.imo.org>, last visited April 28, 2024.

¹⁶¹⁷ [https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-\(FUND\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-(FUND).aspx)

¹⁶¹⁸ India Const., art. 253

take other actions to avoid pollution and enhance the environment under articles 48A and 51A(g)¹⁶¹⁹ of the Indian Constitution. Despite the fact that these two articles are not inherently justiciable, the courts have emphasized their necessity and significance in a number of rulings, supporting the necessity and significance of environmental conservation and restoration.¹⁶²⁰

- **Public Liability Insurance Act, 1991:**

In order to give people impacted by accidents brought on by the improper handling of hazardous materials instant redress, this act makes provisions for the application of public liability insurance. As a result, the Act clarifies what constitutes such chemicals and what falls under them. Furthermore, under the no-fault responsibility concept, the Act also specifies the framework for the liability imposed on owners.

- **Environmental Protection Act 1986:**

Under the Environmental Protection Act of 1986, the Central and individual State governments were given the authority to create laws and regulations pertaining to the preservation and protection of the environment. The Act's Section 237 provides the crucial definitions needed to clarify the scope of the law's applicability as well as the process for resolving disputes pertaining to it.

- **Merchant Shipping Act, 1958**

The Merchant Shipping Act of 1958 places emphasis on the necessity to govern the safety, security, and other perspectives associated with respect to Marine areas in order to promote development and regulate Indian marine and mercantile enterprises in an efficient and effective manner. The Act's Parts XB and XC deal with the creation of the International Oil Pollution Compensation Fund and the imposition of civil liability for oil pollution damage caused by Indian sea vessels or ships.

VIII. Absolute Liability Must Replace Strict Liability in Marine Pollution case:

The several sustainable development goals that the UNDP has created and that its member states have accepted clearly define the need to preserve the environment and limit harm done to it.¹⁶²¹ Therefore, the goal of all of the aforementioned rules, both international and domestic, is to stop pollution in the maritime environment that results from operational or accidental oil spills. Shipowners whose ships may have leaked oil are subject to a strict form liability under the CLC, however they may be able to limit their duty if it can be demonstrated that one of the convention's exceptions may apply. But it's crucial to recognize and evaluate the extent of environmental harm that such oil spills into the ocean produce. Both the immediate and long-term consequences of such pollution harm provide strong evidence against the idea that shipowners should not be exempt from culpability; rather, they should be held fully accountable. The financial support and insurance coverage that shipowners receive from their insurance providers and the Fund for Compensation convention, which has been adopted by member states, can serve as a supplement to such absolute obligation.

The Fund will therefore be permitted to reimburse the victims for any remaining compensation amount in the event that the amount of compensation exceeds the vessel owner's insurance coverage's payout limit. Regarding the issue of pollution caused by a third party's action, if any other individual—such as a crew member, charterer, etc.—intentionally causes an oil spill while knowing full well that the actions will have consequences, the shipowner and the third party—especially if the third party is an employee of the ship—will split the compensation obtained through the imposition of absolute liability.

The decision in this article to impose absolute liability rather than strict liability was made after reading the rulings in the Indian courts' cases of MC Mehta v. Union of India¹⁶²² and Union Carbide

¹⁶¹⁹ India Const., art. 51A(g), ins. by the Constitution (42nd Amendment) Act, 1976.

¹⁶²⁰ Sachidananda Pandey v. State of West Bengal & Ors., 1987 AIR 1109.

¹⁶²¹ UNDP, <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>, last visited- 28 April 2024.

¹⁶²² MC Mehta v. Union of India, supra note 3

Corporation v. Union of India¹⁶²³, wherein the courts emphasized the significance of environmental protection in cases involving the escape of toxic and hazardous substances. Even while the choices in both cases were primarily concerned with protecting people and society, they were also made in light of the serious environmental risks that the toxic gas leak posed.

Imposing absolute liability would primarily aim to prevent shipowners from reducing or restricting the extent of their duty based on the exceptions granted to them. The exceptions would allow ship or vessel owners to avoid liability by not making the necessary efforts to prevent pollution and damage from occurring, even though they would still take all necessary precautions to prevent pollution from occurring. This would show a disregard for both the environment and wildlife.

As a result, the concept of absolute liability would guarantee a decrease in the quantity of oil pollution spills from ships by placing tremendous pressure on the owners of the vessels to pay more in order to restore the water to its prior state. Moreover, the International Fund for Compensation, which has already been established, and the insurance that the shipowners' individual insurance firms have given will back this increased liability.

IX. Conclusion

The environment, wildlife, and other natural resources should all be granted particular unique rights in light of the current trends and significant technology advancements. This will help to ensure that these resources are protected from human activity as much as possible.

Such rights should not be concerned with the broad enforcement of the fundamental rights that are granted to human beings in various ways, but rather with the prevention of such creatures and environmental resources. s. In contrast to strict liability, the principle of

absolute liability applies the polluter pays principle in its entirety because it does not allow for any kind of exceptions or escapes from one's responsibility.

Furthermore, the imposition of this liability will guarantee that all appropriate safeguards be considered and followed in order to guarantee the achievement of the precautionary principle, which was outlined in the Rio Declaration. The disturbance that occurs when oil spills into the sea, along with the disastrous short- and long-term consequences it has on marine life and other resources, should be examined and addressed. One way to do this is by implementing absolute liability

¹⁶²³ Union Carbide Corporation v. Union of India, supra not at 4



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