

ANSWERABILITY OF OIL COMPANIES FOR VIOLATING ENVIRONMENT LAWS

Sunil Kumar Gaur
Department of Law
Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

ABSTRACT: *Over the course of time, many people have set up various industries which by their nature are supposed to be mindful of the environmental laws. However, the industries in lieu of following such norms have instead started violating the same for profiteering. Illegal profiteering is not as harmful as the unlawful acts leading to violation of environmental laws as the public's health is at stake and such a damage to the environment is more or less irreversible and henceforth, is by far most dangerous unlawful act which cannot be corrected even by detaining the person responsible and closing of the company or banning of an industry for that matter. Therefore, it is pertinent to look into such laws and get acquainted with such laws by understanding few precedents and current norms which have been discussed in this paper briefly.*

KEYWORDS: *Government, Environment, Laws, Risk.*

INTRODUCTION

In response to the leak, urgent relief and assistance has been offered by the government, BP, the U.S. Coast Patrol, groups for the community and state departments. President Obama announced that before the full investigation was carried out into whether the leak should have been stopped, the U.S. would not approve further offshore exploration. A state of emergency was proclaimed and precautions were taken to deter oil from further affecting lakes, marshes, coasts, estates, tourism industries and enterprises. Different lawsuits were brought against BP by various individuals, firms, corporations and employees engaged in commercial fishing, charter boat activities, hotels, etc., who were victims of this disastrous event.[1]

Many industrial and residential buildings were destroyed along the shores of the Gulf. These property loss suits have either sought cleaning assistance or monetary compensation. They created the Gulf Coast Claims Facility (GCCF), a \$20 billion fund to resolve claims resulting from such suits, after the executives of BP met President Obama. At both sides, physicists and engineers burned candles to ensure there there was no more oil leak.

Later, the arbitration lawsuits under the GCCF were replaced by the court-supervised settlement scheme and \$404 million in claims were settled and \$105 million was then expended by BP to set up a Gulf Coast health outreach program. Later, BP was found guilty of criminal neglect and intentional fraud by the US Department of Justice. Eventually, BP and the U.S. Department of Justice signed a deal where BP will pay \$4.5 billion in penalties and other fees.[2]

DISCUSSION

As a company, BP is responsible to the people and the society in which it functions. Problems emerged where liability was not acknowledged by BP. Civil & criminal cases have arisen against BP. By deleting messages indicating that BP was aware of the flow rate and the fact that it was three times higher than average, the first case was lodged against a BP engineer for obstructing justice. For behaving negligently, two site administrators were charged with manslaughter. In addition, former BP vice-president David Rainey was convicted of obstructing Congress.[3]

An oil company's corporate criminal obligation is not only limited to the occurrence of the oil spill, but is also applied to the inability to respond and help rebuild the environment. Each corporation is granted a ton of control, which should be followed by an equivalent amount of obligation. A corporation should carry out its activities, bearing in mind the implications of its actions and the environmental effects. In managing corporate affairs, business ethics is concerned with truth and justice. The factors that enhance every company's ethical practices are consistent with government legislation, public transparency, public well-informed, especially in the event of a problem, etc.[4]

The Virtue Principle notes that they must be trustworthy, brave, just, etc., for an organization to work smoothly. A deceptive act was to misrepresent estimates on the quantities of oil dispersed. According to the utilitarian principle, BP should have used the billions of dollars to expand its business and self-development, rather than wasting it on cleanups, donations and other reconstruction operations, had this whole event been avoided by taking adequate precautions.[5]

Sixthly, as it normally happens, before carrying out the operations of a major project, a tailoring plan that identifies quality, risk and safety precautions is executed, which hadn't been done in the case of BP. We must ensure, any project of such sort, at least in the future is made with great planning and considering all aspects of risk management.

Seventhly, the outcome for the residents depends on how deep the pockets of the oil companies are and extent to which they are willing to compensate. Had BP not satisfied the said conditions, it would have taken hundreds of thousands more of claims to settle this issue. Had the incident happened in India, under separate realms of Indian rule, the corporation performing such an act would be responsible. Writs may be used as solutions in environmental conditions in India. By virtue of Art 32 and 226 of the Constitution of India, 1950, such writings may be published. Under the IPC and the Cr.P.C, ex: public nuisance, as specified in section 268 of the Indian Penal Code, 1860, criminal law solutions are given.

The regulatory elements and environment of the countries in which they spend are themselves a threat to credibility, attracting risks. The responsibility of oil producers will be measured by seeing how they conform with the company's continuity, since the withdrawal of the funding of creditors threatens the survival of the company. One deficiency in the annual disclosure report of BP was that it was made to look 43 percent more optimistic than it really was, and they attempted to make it equal to their 2009 report.

Here, the notion of organizational accountability is of considerable significance. The company's owners track the behavior of the company and know whether the company is positive or evil. So the organization is considered to be a truthful business by deliberately exchanging data with them. The concept of corporate criminal responsibility falls into view as we have to determine to what degree the company is responsible for the actions or omissions of the natural persons employed, becoming an abstract entity. If she/he commits a felony, within the framework of employment and with the intention of helping the company, the company can be found responsible for an act by its agent or servant.

One of the ways of controlling businesses is to enforce criminal duty. It should be remembered here that, in addition to the actual responsibility of individuals who can operate on the company's behalf, Article 10 of the Convention against Transnational Organized Crime defines the corporation's criminal liability as a legal body. When the US justice department told the firm not to shred its well-blowout records, criminal blame falls on BP and other associated parties. Non-compliance is an action which involves an aspect of crime. Yeah, it is also an illegal act, i.e. making false representations to the federal government, committed by BP. Criminal prosecution can be taken against a corporation in the United States that fails to comply with regulations such as the Clean Water Act, the Oil Emission Act, the Refuse Act, etc. In the US, the Clean Water Act includes regulations on the prevention of oil spills and monitoring mechanisms, civil and criminal liability surrounding the same. The Refuse Act teaches us of unlawful dumping into rivers, the infringement of which leads to criminal charges, following the principle of strict liability, which ensures that the corporation responsible for the incident of an oil leak is liable merely because, inadvertently or deliberately, the disaster happened. The bulk of oil leaks are the product of incompetence.[6]

Indian courts also have the authority to compel a party, known as an injunction, to do / refrain from performing an act. Another recourse given to ensure the protection of individuals and the environment is Public Interest Lawsuits.[7]

In the case of shriram foods and fertilizers, the Supreme Court ordered the company producing toxic chemicals and gases, by means of a PIL, to take all necessary safety precautions before reopening the company, after being ordered to temporarily shut down by the same court. Also in the event of an oil leak from an oil company in India, this alternative is available to Indian people. Most notably, by virtue of the reading of Article 21, the right to a safe environment is guaranteed to us as a constitutional right: "No person shall be deprived of his or her life or personal liberty, except in accordance with the procedure provided by law." [8] In the one hand, our constitution, by the rules of the Directive, orders the state to preserve and enhance the environment and, on the other hand, people have a moral responsibility to protect the environment.[9]

CONCLUSION

Legal Solutions

Prevention is easier than treatment, as we're all conscious. This is true even in the event of an oil leak happening. If we take a few protective steps, we won't have to complain about the leakage of oil or the harmful effects later on.

First of all, it is important for employees concerned with the processing, storing and transport of oil across seas and other bodies of water to be trained in the operation of machinery, emergency operations, and to be taught the latest technology that will enhance their understanding and enhance safety operations.

Secondly, Evaluation and analysis of technology and the most accessible and safer solutions are some of the services introduced. They have a variety of laws and legislation in the U.S. that help deal with the facets of oil spills listed above.

Thirdly, "The Clean Water Act was amended and replaced by the 1990 Oil Pollution Act, which states that businesses must have a "plan to avoid leaks that can occur." And have a "detailed oil spill management and cleanup plan. The Expansive Environmental Response, Compensation and Responsibility Act (CERCLA) applies the Clean Water Act's response to a wide variety of toxic chemicals and toxins. The Oil Contamination Act formed the Oil Spill Responsibility Trust Fund in Title I to help promote cleanup operations and pay for the harm caused.

Fourthly, safe equipment operations should be ensured to minimize the risk of a spill and protect people's health and safety. As required by the EPA, specific spill prevention, control, and countermeasure plans (SPCC) are to be implemented.

Fifthly, 'Earthjustice' has been deeply involved in curtailing offshore drilling expansion. They aim to force federal agencies to do their jobs through a series of lawsuits and stop being cozy with businesses such as BP that were allowed to drill recklessly without adequate planning to deal with even a small oil spill. They have also made efforts to force the EPA to reveal the oil dispersant ingredients.

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