

OIL SPILLS & CORPORATE SOCIAL RESPONSIBILITY

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ABSTRACT

'Oil spills are a major concern when it comes to protecting the biodiversity of the oceans in particular and the entire environment in general. The major stakeholders involved in this are the major multinational corporations and shipping companies. This paper deals with the oil spills and tries to analyze the Corporate Social Responsibility these aforementioned institutions have towards the environment and what can be done further to compel them to respect the environment and walk the path of sustainability.

Keywords: CSR, Responsibility, Oil Spill.

INTRODUCTION

Since time immemorial human beings have used and rather exploited the resources of the sea and water bodies in general. One of the foremost usages amongst the aforementioned usages is that of oil extraction because a plethora or perhaps most of the natural oil that exists is found in the sea bed and due to the same reason human beings have taken an unprecedented interest in finding them, excavating them and then further using them for various purposes as oil and natural gas as we call it, is an extremely useful and yet scarce natural resource. Fuel is something that is used in almost every arena of trade and commerce and mostly in all areas of life be that transportation to even cooking food. Hence, in the process of such excavation and extraction of oil, there have been several instances that had led to the spilling of this oil in the water bodies. Now, this is a no-brainer and basic scientific principle that oil and water aren't soluble and oil per se is tremendously harmful to the creatures residing in the sea, and not only that, it holistically affects the entire biodiversity around and in the water body.

LITERATURE REVIEW

Oil facilities and oil tankers that are under the operational control of organizations, such as oil firms and tanker owners, are the most common sources of major oil spills. Mandatory government regulation or voluntary initiatives commonly pursued under the umbrella of

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Corporate Social Responsibility are the two main answers for influencing company behavior regarding oil spill avoidance (CSR)¹. The moot proposition here is to investigate the possibilities of voluntary CSR programs for reducing oil spills, as well as the extent to which CSR can be useful and whether CSR should be used to replace or supplement mandatory regulation.

The oil and gas industry has been a leader in promoting corporate social responsibility. One explanation is that oil and gas operations pose serious environmental risks at every stage of the industrial process, including construction, exploration, production, transportation, and refining, while multinational oil companies are more vulnerable to civil society pressures than companies in other sectors of the economy because the negative effects of oil operations are highly visible and the companies' international brand reputations are vulnerable². Another important explanation is that oil companies are willing to accept higher levels of sociopolitical risk because they are forced to operate in more challenging environments due to geological constraints, with oil and gas deposits frequently located near ecologically sensitive areas and in countries with poor governance³.

The amazing expansion of corporate codes of conduct and social and environmental reporting, for example, demonstrates the growth of CSR. Oil corporations are at the vanguard of this reporting movement, with 95 percent of the world's 250 largest firms formally reporting on their CSR operations⁴. Since the mid-1990s, CSR has become more sophisticated and complex. The Global Reporting Initiative (1997), the UN Global Compact (1999), the Voluntary Principles on Security and Human Rights (2000), the Extractive Industries Transparency Initiative (EITI – 2003), and the Combat Climate Change 3C Initiative⁵ are just a few of the international voluntary initiatives that oil companies have joined (2007). CSR has been critiqued from a variety of angles at the same time. On the one hand, some business authors have long claimed that CSR is inherently flawed.

¹ Clark, R. B., editor. 1982. The long-term effects of oil pollution on marine populations, communities and ecosystems. Royal Society, London, UK. <http://dx.doi.org/10.1098/rstb.1982.0037>

² Estrada, J., K. Tangen, and H. O. Bergesen. 1997. Environmental challenges confronting the oil industry. Wiley, New York, USA.

³ Pegg, S. 2006. World leaders and bottom feeders: divergent strategies toward social responsibility and resource extraction. Pages 249-269 in Christopher May, editor. Global corporate power. Lynne Rienner, Boulder, Colorado, USA.

⁴ KPMG International. 2011. KPMG International survey of corporate responsibility reporting 2011. [online] URL: <http://www.kpmg.com/PT/pt/IssuesAndInsights/Documents/corporateresponsibility2011.pdf>

⁵ Frynas, J. G. 2010. Oil industry's increasing focus on CSR. Petroleum Economist February.

According to this viewpoint, companies that pursue social and environmental goals may end up hurting shareholders by creating reduced profits, while companies are considered to lack the expertise to solve social and environmental problems⁶ Various studies, including studies that explicitly explored CSR in the oil and gas sector, have pointed to the limitations and generally poor performance of existing CSR activities in terms of providing social and environmental benefits⁷. Therefore, it is imperative to question the efficacy of voluntary corporate social responsibility and on the other hand weigh the role of the government in enforcing it in case of oil spills specifically to effectively protect the environment.

METHODOLOGY

Empirical analysis of qualitative data and case studies and analyzing them to find out the scope and role of voluntary and non-voluntary corporate social responsibility by major corporates about oil spills specifically.

LEGAL FRAMEWORK

The legal framework in India and International legal conventions are mentioned herein and they are as follows;

There are international conventions in place to reduce pollution from ships, and these are aimed at achieving the following goals:

The first goal is to provide for the complete elimination of international oil pollution of the seas; to provide for the minimization of international and accidental oil and other element pollution of the seas by offshore facilities; to provide for the complete elimination of pollution of the seas by activities such as tank washing and bilge discharge involving noxious and hazardous cargoes other than oil, and to provide for the complete elimination of pollution of the seas by activities such as tank washing and bilge discharge involving noxious and hazardous cargoes

Dealing with oil spills caused by accidents; dealing with the dumping and disposal of solid trash and sewage by ships into the oceans; dealing with the safe carriage of risky commodities; dealing with air pollution caused by ships

⁶ Friedman, M. 1962. Capitalism and freedom. University of Chicago Press, Chicago, Illinois, USA.

⁷Ottaway, M. 2001. Reluctant missionaries. Foreign Policy July/August:44-54.

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Three conventions have been followed to cope with the problem of oil pollution in the sea:

- International Convention on Intervention in Cases of Oil Pollution Damage on the High Seas, 1969;
- International Convention on Civil Liability for Oil Pollution, 1969; and
- International Convention on the Establishment of an International Fund for Oil Pollution Damage, 1971

MERCHANT SHIPPING ACT OF 1958

The Merchant Shipping Act of 1958, Part XI, gives effect to international conventions for the avoidance of oil pollution of the waters. Because oil is imported in enormous quantities, the problem of oil pollution is a major worry for our country.

As a result, the problem is split into two stages:

- Preventing pollution and mitigating oil spills
- Controlling, or removing oil spills, whether they are unintentional or not.

The sections of the Merchant Shipping Act of 1958 are described in the following points.

- **Section 356 A** The Merchant Shipping Act of 1958, Section 356A, defines the application of prevention and containment of oil contamination of the sea.
- **Section 356 B**- The definition of oil pollution of the sea is described in section 356B. This section defines all terms associated with the pollution of the sea caused by ships carrying oil cargo.
- **Section 356 C** - Section 356C explains how a pollution prevention certificate is granted to ensure that no tanker or ship goes to sea. It is referred to be an international oil prevention certificate because it is granted by the central government.
- **Section 356 D**- Section 356D describes the issuance of certifications for foreign ships in India and Indian ships in foreign countries, implying that a ship cannot enter another country without a certificate.
- **Section 356 E**- The necessity for pollution-prevention construction and equipment in ships is described in Section 356E, which means that suitable actions should be taken to prevent pollution by whatever methods are necessary.

- **Section 356 F-** Section 356F refers to the keeping of books, which means that records shall be kept on how much oil is brought into India.
- **Section 356 G-** Inspection and control of oil tankers and other ships to which this Part applies are described in section 356G, which provides that any person permitted may go on board and enquire about the ship as long as they follow the correct laws and regulations.
- **Section 356 H-** The information on the disobedience of Convention provisions is described in section 356H, which indicates that if the director general discovers that the ship is not in compliance with the required regulations, the ship may be detained and legal action taken against the oil tanker.
- **Section 356 I-** Oil receiving facilities at ports in India are described in Section 356I, which specifies that every port in India should have reception facilities.

CONTROL OF ACCIDENTAL POLLUTION REQUIREMENTS

- **Section 356 J -** The power to give notice to the owner, etc., of a polluting ship is described in section 356J. If the central government is satisfied that the ship is not operating by the established standards, the shipowner may be served with a notice to fix the same mistake.
- **Section 356 K -** The Powers to Take Measures for Preventing or Containing[oil or toxic liquid material] Pollution section 356K provides that if a person fails to cooperate after receiving a notification under section 356J, the central government can convict them of an infraction.
- **Section 356 L -** The power of the Central Government to direct certain ships to render particular services are described in section 356L. The government has the authority to request any service from the shipowner if it is deemed required by the government.
- **Section 356 M -** The oil pollution cess is described in section 356M.
- **Section 356 N-** The refusal of port clearance is described in section 356N.
- **Section 356 O-** The Power to Make Rules is described in Section 356O.

The abovementioned is broadly the legal framework for tackling oil spills in India and there are other legal provisions set down for the corporates like the polluter pays principle and others.

FINDINGS AND ANALYSIS

The major findings and the analysis that has come to the front from the existing legalities in India are that there are stringent laws in place both for merchant ships, oil tankers, and even corporates and oil companies concerning oil spills in the past we have seen that as well in the cases of MSC Chitra, MV Khalijra, etc. However, the main question that arises here is where the angle of corporate social responsibility come in. In the past and even now we have seen and are still witnessing environmental degradation due to the rampant exploitation of the water bodies be it by corporates and multinational companies for extracting oil out of the sea bed also companies and specifically merchant shipping companies in using the waterways for trade and commerce. Now it is a fact that without fuel the world cannot function per se and hence trade and commerce along with the aforementioned extraction are quintessential for the world to function as it is functioning now but the moot proposition here is that it shouldn't do much at the cost of the environment and essentially because there is no backup plan that we have as such and if such unprecedented exploitation continues, human beings will have a very clear timeline of the end. Hence, the need of the hour is to emphasize voluntary corporate social responsibility and walk the path of sustainability even if that happens at the cost of slightly fewer dividends paid to the shareholders. As it stands today, very few companies, at least in India, have the will to do voluntary CSR and hence the government will have to make more stringent laws and regulations keeping in mind the sustainable development goals and enforce them effectively.

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CONCLUSION

To conclude it is mandatory to quote Niall Fitzgerald, Former CEO, of Unilever when he said that "*Corporate social responsibility is a hard-edged business decision. Not because it is a nice thing to do or because people are forcing us to do it... because it is good for our business*". The world is standing at a very dicey juncture in this epoch and preserving the water bodies is more important now than it ever was and oil spills are nothing less than catastrophic to the nature when it comes to sustainability and hence paired with social pressure from the consumers along with legalities, the companies should be made to do their part of the social responsibility and respect the environment that puts bread on their table.

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