

Indian Civil Liability for Nuclear Damage Act

India's nuclear liability law has been a subject of extensive debate since its inception due to its significant impact on the country's nuclear energy expansion and global collaborations. The Civil Liability for Nuclear Damage Act (CLNDA), 2010, aims to establish a comprehensive framework for liability and compensation in the event of a nuclear accident. However, its supplier liability clause has deterred international nuclear suppliers, necessitating a re-evaluation of the law. Recent developments indicate that the Indian government is considering amendments to align the law with international standards, potentially unlocking long-stalled nuclear projects with U.S. and French firms.

Origin of India's Nuclear Liability Law

The Civil Liability for Nuclear Damage Act (CLNDA) was enacted in 2010 following the Indo-U.S. Civil Nuclear Agreement of 2008. The Act was introduced to facilitate nuclear commerce while ensuring adequate compensation mechanisms for victims in case of a nuclear accident. The law became a necessity after the 1984 Bhopal gas tragedy, which highlighted the importance of robust liability laws in case of industrial disasters. Unlike many international frameworks that place liability solely on nuclear plant operators, India's CLNDA introduced a controversial provision that allows operators to seek recourse from suppliers in certain circumstances.

Need for the Legislation

The CLNDA was enacted to address multiple concerns:

1. **Victim Compensation:** Establishing a structured mechanism to provide relief and compensation to affected individuals in the event of a nuclear disaster.
2. **Legal Certainty:** Creating a clear framework to facilitate the growth of nuclear energy in India by defining the roles and liabilities of various stakeholders.
3. **Alignment with International Standards:** Ensuring India complies with global best practices in nuclear liability laws, making the country an attractive destination for nuclear investments.
4. **Prevention of Another Bhopal-like Disaster:** Strengthening accountability in nuclear energy production to prevent and mitigate industrial disasters.

Current Status of the Law and Challenges

As of 2024, the CLNDA remains a cornerstone of India's nuclear liability regime. However, its supplier liability clause has led to hesitancy among foreign nuclear suppliers. Western companies such as Westinghouse Electric (U.S.) and Electricité de France (EDF) have been reluctant to finalize nuclear agreements with India, fearing the financial risks associated with the law. The only foreign company currently operating in India is Russia's Rosatom, which is involved in the Kudankulam Nuclear Power Plant in Tamil Nadu.

International Comparison of Nuclear Liability Frameworks

Globally, nuclear liability laws primarily follow two international conventions:

- **The Paris and Vienna Conventions:** These treaties place primary liability on nuclear operators, ensuring that victims receive compensation without needing to prove fault.
- **The Convention on Supplementary Compensation for Nuclear Damage (CSC):** This framework, which India joined in 2016, aligns with the Paris and Vienna Conventions but does not include supplier liability.

Key Differences Between India and Other Nations:

- **United States (Price-Anderson Act):** U.S. law channels all liability to nuclear operators and provides a compensation fund exceeding \$12 billion, which shields suppliers from direct financial exposure.
- **France:** Similar to the U.S., France does not impose liability on suppliers but mandates high insurance coverage for operators.
- **Russia:** Follows international best practices, ensuring that nuclear operators bear full liability while suppliers remain exempt.

India's deviation from this model has led to friction with international suppliers, limiting the country's nuclear energy expansion.

Proposed Amendments and Their Implications

With Prime Minister Narendra Modi's visit to the U.S. and France in 2024, India announced plans to amend the CLNDA and the Atomic Energy Act, 1962. The amendments aim to:

1. **Separate Operator and Supplier Liability:** Aligning India's nuclear liability law with the CSC by channeling liability exclusively to operators, making it consistent with international norms.

2. **Facilitate Large-Scale Nuclear Investments:** Removing legal roadblocks that have stalled projects like EDF's Jaitapur Nuclear Power Plant in Maharashtra (six EPR1650 reactors) and Westinghouse's Kovvada Nuclear Power Plant in Andhra Pradesh (six AP1000 reactors).
3. **Encourage Small Modular Reactors (SMRs):** With a target of 100 GW nuclear capacity by 2047, India is focusing on SMRs, which require substantial private sector participation. Liberalizing investment in nuclear projects under the Atomic Energy Act would help achieve this goal.

Finance Minister Nirmala Sitharaman, in her Budget 2024 speech, proposed an allocation of ₹20,000 crore for the development of five SMRs by 2033, reinforcing India's commitment to nuclear expansion.

Concerns and Need for Clarity

While the proposed amendments are expected to unlock nuclear collaborations, several concerns remain:

- **Legal Certainty:** Experts argue that amendments must be transparent and address liability concerns effectively.
- **Opposition from Domestic Stakeholders:** Some lawmakers and activists fear that removing supplier liability may absolve foreign firms of accountability, similar to the concerns raised during the Bhopal gas tragedy.
- **Compliance with International Conventions:** Ensuring that any amendments align with India's commitments under the CSC and other nuclear agreements.

Conclusion

India's nuclear liability law has played a crucial role in establishing a structured legal framework for nuclear safety and compensation. However, the supplier liability clause has been a significant deterrent to foreign investments, stalling key nuclear projects. The government's recent push for amendments signals a willingness to integrate with global best practices, potentially ushering in a new era of nuclear energy expansion in India. While the proposed reforms have been welcomed by international stakeholders, their successful implementation will depend on balancing economic, legal, and environmental considerations.

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