



Human Dimensions Impacts of Oil Spills

Crime enforcement-related impacts

US laws impose civil penalties for environmental mishaps and oil spills, but these are capped by law. While most oil spills involve civil penalties less than these caps, large spills present the possibility of criminal prosecution, because there is no limit to claims granted for criminal negligence.

Criminal Investigation of the BP Rig Blowout

The blow out on BP's rig in the Gulf of Mexico on 20 April 2010 created an oil spill of epic proportions in an ecologically rich and economically important marine and coastal environment.

In the first month of spill response, Congressional hearings were held to examine whether there was evidence of criminal behavior [1]. The possibility of prosecution for criminal negligence may have led BP to not make public all of the data and knowledge it had about the spill. Criminal investigations are to be expected in big spills like this, because the cap on civil liabilities are much lower than the expected claims for losses [2].

The Environmental Protection Agency, Federal Bureau of Investigation, and US Coast Guard have increased scrutiny of environmental incidents. These incidents are receiving far more investigative and prosecutorial attention than ever before [3]. Laws that were not intended to



Deepwater Rig on fire - Photo: Coast Guard

be applied in spill event have been used to criminally sanction Responsible Parties e.g., Migratory Bird Treaty Act of 1899 used in the 1997 *North Cape* oil spill) [4].

When a spill occurs, the Coast Guard has the responsibility to conduct an investigation on the vessel to determine if there is evidence of a crime. This can involve drug and alcohol tests, subpoenas for documents, and fact-finding inquiries. Any criminal evidence discovered during the investigation must be turned over to the US Attorney for criminal prosecution. Shore-based activities are investigated by local, state, and federal police and other authorities. Culpable parties can be subject to criminal sanctions for their actions. Corporations can be prosecuted as well [3]. Under the "responsible corporate officer" doctrine, the chief executive officer (CEO) can be found liable for acts performed on behalf of the corporation that lead to the violation of laws [4].

Incarceration of crewmembers: *M/V Hebei Spirit*

On December 7th 2007, a crane barge towed by a tug collided with the anchored Hong Kong-registered vessel *Hebei Spirit* near the port of Daesan on the Yellow Sea's coast of South Korea. The tanker was carrying 80 million gallons of crude oil of which 3.3 million gallons were released 5 miles from the port [5]. The crane barge punctured three of the five *Hebei Spirit's* tanks after the cable linking it to the tug snapped in the rough seas.

impacts associated with criminal investigations

- Prosecution of seafarers & corporations.
- Fines, loss of permits, disqualified from state and federal contracts.
- Cleanup hampered by lack of cooperation from the Responsible Parties.



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While the disaster affected about 30 beaches and a large wetland area used by migratory birds and oyster farmers [6], considerable controversy ensued about how the Korean government handled its criminal investigation. After the spill, the Korean government prosecuted the *Hebei Spirit's* Captain and first mate for criminal negligence. They were exonerated in June 2008, but two South Korean tug boat captains who were towing the barge were convicted of violating the marine pollution prevention law and sentenced to 30-months in prison [10]. Although exonerated, the *Hebei Spirit* Captain and first mate were held for six months until the Korean Coast Guard completed its investigation.

In December 2008. The Coast Guard blamed the two tug captains and the *Hebei Spirit* Captain and first mate. A judge assigned them 18 months and 8 months in jail respectively, while the tug captains were let go [7-9]. In January 2009, after diplomatic pressures from India, the men were released on bail with the interdiction to leave Korea [11]. In April 2009, after more than a year of waiting for a 'final' verdict, the Supreme Court dismissed the case [10, 12]. They were finally permitted to return to India in June 2009.

The international maritime community strongly questioned the safety of Korean ports for international tankers and their crews [7-9]. *Hebei Spirit* personnel followed the standard of maritime safety practice outlined in the international manuals for tanker operations. The criminal convictions of the Korean Court indicate that Korea acted independently of the internationally accepted and adopted maritime safety practices for tankers at sea [10-12].

This case study is an example of the criminalization of seafarers. Operators, crewmembers and masters should be aware of jurisdictions and local regulations in which the company is operating.

References

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Mallipo Beach, located in the Taean Coast National Marine Park, 2 days after the spill Photo: Reuters [13]