

Navigating Ambiguities in India's Nuclear Liability Law

Introduction

India's Civil Liability for Nuclear Damage Act (CLNDA), 2010, created to ensure prompt compensation to victims of nuclear accidents, has emerged as a point of contention for foreign and domestic nuclear suppliers. Its deviation from international norms—especially concerning supplier liability—has resulted in stalled projects and hesitancy from foreign firms.

Provisions of India's Nuclear Liability Law

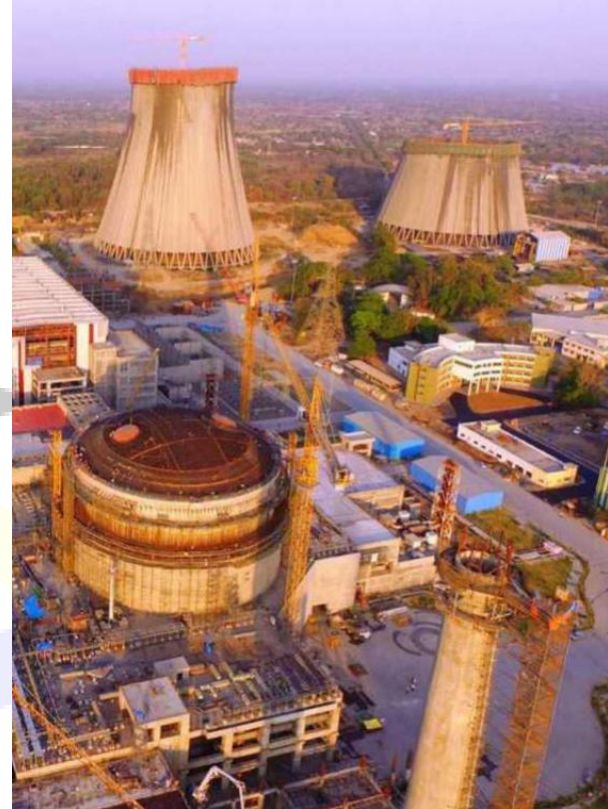
- **Primary Law:** Civil Liability for Nuclear Damage Act (CLNDA), 2010.
- **Operator Liability:** Strict and no-fault liability on the operator (NPCIL), with a compensation cap of ₹1,500 crore.
- **Government Role:** Additional compensation (up to ₹2,100–2,300 crore) to be provided by the government if required.
- **Insurance Requirement:** Operator must secure insurance or other financial mechanisms to cover liability.
- **Scope:** Limited timeframe and liability caps are set for claims.

Ambiguities and Supplier Liability

- **Deviation from Global Norms:** Unlike the international Convention on Supplementary Compensation (CSC), India's law introduces supplier liability under Section 17(b).
- **Key Clauses of Concern:**
 - **Section 17(b):** Allows operator to seek recourse from suppliers in cases of patent/latent defects in equipment or sub-standard services.
 - **Section 46:** Potentially allows civil suits under other laws, creating scope for unlimited liability on suppliers.
- **Foreign Concerns:**
 - Exposure to open-ended liability.
 - Absence of clarity on types of "nuclear damage".
 - Ambiguity in insurance requirements and indemnity scope.

Impact on Nuclear Projects

- **Stalled Deals:**
 - **Jaitapur Project** (France): Delayed over unresolved liability issues.
 - **Kovvada Project** (U.S.): Facing similar hurdles.
- **Limited Foreign Presence:**
 - Russia's Kudankulam plant remains the only operational foreign collaboration, initiated prior to CLNDA.



Government's Position

- **Defending CLNDA:** Asserts compliance with CSC and claims that supplier liability is optional.
- **Interpretation Conflicts:**
 - Legal experts argue that Section 17(b) operates independently, enabling recourse against suppliers even without contractual stipulation.
 - Section 46 remains problematic due to the potential for additional civil suits.

Way Ahead

- **Legal Clarification:** Define “nuclear damage” clearly and reassess Section 46 to limit unintended liabilities.
- **Amendments or Guidelines:** Issue specific rules on supplier insurance obligations and liability thresholds.
- **Stakeholder Dialogue:** Build trust with international suppliers via transparent and mutually acceptable agreements.
- **Judicial Clarity:** Seek definitive interpretations or possible reforms to harmonize law with global norms without compromising victim compensation.

Conclusion

India's nuclear liability framework, while rooted in the ethical imperative to protect victims and ensure accountability, has introduced legal ambiguities that deter foreign collaboration. A delicate balance must be struck between supplier accountability and creating a predictable, investment-friendly environment for nuclear energy expansion. A re-examination of contentious provisions could unlock the vast potential of India's nuclear energy ambitions while preserving justice and safety.

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