

## Civil Liability for Oil Pollution Damage in Libya: An Analytical Study in Light of National Law and the Theory of Objective Liability

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### ABSTRACT

This study aims to analyze civil liability for oil pollution damages in Libya by evaluating the national legal framework and exploring the appropriateness of applying the theory of objective liability as a more just basis for achieving compensation. The problem of the study stems from the shortcomings of the Libyan legal system in addressing environmental damages resulting from oil pollution. Libyan civil law generally holds people responsible for harm only if they are proven to be at fault, which makes it hard to deal with oil pollution cases due to the complicated nature of the damage, the time it takes for effects to show up, and the challenge of proving a direct link between the pollution and the harm caused. Despite its comprehensiveness, Law No. 15 of 2003 on the Protection and Improvement of the Environment did not include specific regulations for liability or compensation mechanisms for oil pollution damage. The study relies on a narrative approach, through analyzing national legal texts, particularly Law No. 15 of 2003 and the Libyan Civil Code, in addition to reviewing relevant legal principles and theories, such as objective liability. The study concludes that current legal rules do not provide sufficient guarantees for achieving environmental justice or protecting the rights of those affected by oil pollution. This highlights the need for legislative reforms based on objective liability to provide adequate compensation mechanisms and ensure redress for those affected.

**Keywords:** Oil Pollution Damage, Civil Liability in Libya, Objective Liability Theory, Environmental Law Reform, Compensation Mechanisms.

### INTRODUCTION

Oil was first discovered in Libya in 1958, and production began in 1961. Oil plays a significant role in the Libyan economy, accounting for approximately 94% of the country's resources. It is also the primary source of foreign labor, making the oil and gas industry the backbone of the country's economy. This role is not limited to the financing of the oil sector, but extends to providing energy for other sectors (Al-Tuwail, 2022). However, this heavy reliance on oil is accompanied by significant environmental challenges resulting from expansion, extraction, and production. These problems are particularly evident in oil-producing regions.

Oil and gas production operations involve several essential aspects, most notably the drilling of exploratory and production wells. These operations are accompanied by a range of environmental impacts resulting from industrial waste, associated water pools laden with chemicals and petroleum, and gaseous emissions that contribute to air pollution and harm public health. Drilling operations also include the addition of liquid, solid, or gaseous substances, which contaminate groundwater and the lands surrounding the drilling areas (Al-Tuwail, 2022). If these operations are not carefully managed and in accordance with environmental controls and standards, they can lead to significant, long-term environmental damage.

These environmental impacts resulting from industrial operations highlight the urgent need to establish effective legal and regulatory frameworks to mitigate damage and provide legal protection. However, the national legal framework still lacks the capacity to effectively address their impacts. Law No. (15) of 2003 on the Protection and Improvement of the Environment includes general provisions aimed at protecting the environment from pollution resulting from various activities, including the oil industry. In general, this law has established a legal framework aimed at reducing pollution by obligating industrial, commercial and service facilities to take preventive measures and address damages resulting from industrial activities. In addition, this law does not include a special regulation of civil liability for oil pollution damages or compensation mechanisms. Libyan civil law also relies on fault, whether proven or presumed, in civil liability. This is inconsistent with environmental damage, which is characterized by its delayed onset and complexity, particularly in proving the causal relationship between the fault and the outcome. This situation reveals a legislative gap that prevents the achievement of environmental justice and the guarantee of the legal rights of those affected.

At the international level, advanced legal experiences, such as French environmental legislation, have demonstrated a trend toward adopting objective liability as a more equitable and appropriate mechanism in cases of complex environmental damage. This underscores the need to develop Libyan legislation based on objective liability rules, ensuring effective protection of the environment from oil pollution.

In this context, this study seeks to fill the existing research gap by analyzing the Libyan legal framework and demonstrating the importance of applying objective liability rules to promote environmental justice and enable those affected to obtain their legitimate rights to compensation. The problem lies in the shortcomings of the Libyan legal framework in addressing environmental damages resulting from oil pollution. The general rules of civil liability in Libyan civil law rely on proven error, making their application to complex and late-onset environmental damage cases extremely difficult. Furthermore, Law No. (15) of 2003 on the protection and improvement of the environment, despite its comprehensiveness, did not include a specific regulation of civil liability for oil pollution damages, instead relying on a preventive framework.

On the other hand, legal literature, both domestically and internationally, demonstrates a focus on the preventive and institutional aspects of environmental protection, with a clear neglect to analyze compensation mechanisms and victims' rights, especially in contexts suffering from legal weakness, such as the Libyan case.

The importance of this study emerges from its efforts to address the legislative shortcomings in the Libyan legal system regarding civil liability for oil pollution damages. It also gains its importance from its critical analysis of relevant national legislation and its proposal of an alternative legal framework based on the theory of objective liability, which enhances environmental protection and ensures fair compensation for victims. This study represents a useful reference for legislators, researchers, and decision-makers in developing environmental legislation in line with environmental justice requirements. Hence, the study aims to examine the extent to which the theory of objective liability can be used to enhance legal protection and achieve fair compensation for those affected. To achieve this general objective, the study seeks to achieve several interconnected sub-objectives, including analyzing the adequacy of Law No. 15 of 2003 regulating civil liability for oil pollution, assessing the appropriateness of general rules of civil liability, and exploring the role of objective liability theory in supporting environmental protection and providing effective compensation mechanisms. The research questions revolve around the adequacy of Law No. 15 of 2003 on the Protection and Improvement of the Environment, the suitability of the general rules of civil liability in Libyan law for their application to oil pollution cases, and the possibility of adopting objective liability to fill the gaps in legislation and ensure the protection of those affected by oil pollution. Based on the above, this study seeks to analyze the shortcomings in the Libyan legal framework related to oil pollution damages and propose legal alternatives based on objective liability theory, which would contribute to promoting environmental justice and enabling those affected to obtain fair compensation. To achieve this, the study begins by reviewing relevant legal literature to establish theoretical concepts related to civil liability and compensation for environmental damage, and exploring previous efforts in this field.

## **METHODOLOGY**

This study utilizes a doctrinal legal research design with a qualitative approach, as well as analytical and comparative approaches. The doctrinal method most appropriately fits this topic because it allows a deep analysis of the Libyan legal provisions regarding civil liability for oil pollution and compares them with relevant legal principles. The study thoroughly evaluates the existing legislation and judicial interpretation of the current legislation in order to ascertain whether the legislation sufficiently achieves environmental justice and compensates affected parties. Furthermore, a comparative law perspective will also be incorporated to assess international conventions and foreign legislative examples which have successfully adopted the principle of objective liability. This dual perspective, both doctrinal and comparative, provides the opportunity to identify legislative shortcomings and recommend evidence-based reforms to Libya's oil pollution liability regime.

## THEORETICAL FRAMEWORK FOR CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

### Concept of Pollution and Environmental Damage

Pollution is a fundamental concept in environmental law, forming the basis for many rules aimed at protecting the environment and conserving its resources. Although pollution is primarily addressed as an environmental issue, environmental definitions contribute to formulating the legal foundations for its regulation. According to Russell (1974), pollution in the environmental context is defined as human activity that introduces substances or energy into water, air, or soil, causing a deterioration in the quality of these components and adversely affecting living organisms or future uses of the environment. This definition indicates that pollution is a phenomenon associated with human activities and is not related to natural causes. Environmental pollution, in light of the Stockholm Declaration (1972), is understood as a direct or indirect result of human activities that introduce substances or energy into the environment in quantities or concentrations exceeding the capacity of ecosystems to contain or treat them, causing serious or irreversible damage to human health, living resources, or the quality of the natural environment. This concept was expressed in a number of principles contained in the Declaration. Principle 6 emphasized the need to stop the discharge of harmful substances and heat beyond the environment's capacity to treat them, to avoid damage to ecosystems. Principle 7 highlighted the responsibility of states to prevent marine pollution with harmful substances, while Principle 2 emphasized the protection of natural resources for the benefit of present and future generations. Principle 5 called for the rational use of non-renewable resources to protect them from depletion, and Principle 4 highlighted the importance of preserving natural heritage, including wildlife and their habitats, in the face of environmental threats (United, 1972), accessed June 18, 2025.

In this context, marine pollution is a specialized form of this general concept. Article 1(4) of the United Nations Convention on the Law of the Sea (1982) defines it as the introduction by humans, directly or indirectly, of substances or energy into the marine environment, including estuaries, which causes or is likely to cause adverse effects on living resources and marine life, poses a threat to human health, interferes with legitimate marine activities, or leads to a deterioration in the quality of seawater or a restriction on its use (Nations, 1982).

In the same vein, the 1992 Civil Liability Convention for Oil Pollution Damage did not provide (CLC 1992). An explicit definition of the term "oil pollution" was limited to specifying the scope of the damage resulting from it. Article 1, paragraph (6), defined "pollution damage" as loss or damage resulting outside the ship due to the leakage or discharge of oil from it, including the costs of preventive measures. This means that oil pollution in this agreement is pollution resulting from the leakage of oil from ships, which leads to environmental degradation that requires compensation (Funds, 2018).

In the national context, the Libyan legislator has clarified the concept of environmental pollution in a general and comprehensive manner through paragraph (3) of Article 1 of Law No. (15) of 2003 regarding the protection and improvement of the environment, which states: "The occurrence of any condition or circumstance that results in the exposure of human health or environmental safety to danger as a result of pollution of the air, seawater, water resources, or soil, or an imbalance of living organisms, including noise, vibrations, unpleasant odors, and any other pollutants resulting from activities, any other pollutants resulting from the activities and actions of a natural or legal person." Thus, pollution affecting various elements of the environment was addressed, including air, water, soil, and biological balance, as well as non-traditional pollutants such as noise, vibrations, and unpleasant odors, which reflects the broad scope of legal protection for the environment in Libyan legislation. From the above, it is clear that the definitions provided were generally broad and comprehensive of the concept of pollution in general, while some were limited to pollution in the marine environment specifically, as is the case with the 1982 United Nations Convention on the Law of the Sea, which provided a functional description of marine pollution and clarified its concept, and the 1992 CLC Convention, which avoided explicitly defining oil pollution and limited itself to identifying the damage resulting from it.

In contrast to this diversity of international formulations, it is noteworthy that the Libyan legislature moved towards providing a comprehensive legal definition of environmental pollution through Law No. (15) of 2003 on the Protection and Improvement of the Environment. The definition expanded to include various environmental elements, including air, water, soil, and biological balance, in addition to non-traditional pollutants such as noise, odors, and vibrations.

Although this definition demonstrates a clear legislative desire to expand the scope of environmental protection, it did not provide a specific definition for oil pollution, which is considered one of the most dangerous forms of pollution and the one most closely related to the Libyan reality, especially in areas close to production facilities. Consequently, the concept of oil pollution in Libyan law remains subject to interpretation within the general framework of environmental pollution, without specific qualitative definition or legal adaptation.

Contrary to this approach, it is noteworthy that French law has not provided a unified or explicit definition of the concept of environmental pollution. Rather, it has merely regulated its legal effects through a system of separate legal texts, as evidenced by several articles of the French Environmental Code. This constitutes a distinct model for addressing this concept. Article (Legifrance, 2021a) L.110-1 of the French Environmental Code is a central text in this framework, recognizing that natural resources, air quality, and biological balances constitute part of the common heritage of the nation and enshrining several fundamental legal principles, such as the precautionary principle, the prevention principle, and the polluter pays principle. These principles give the concept of pollution a preventive and deterrent dimension, such that the perpetrator can be held accountable even if no damage has occurred, if his action poses a serious risk to the environment.

The article also highlights (Legifrance, 2021e) L.541-2 The pivotal role of waste mismanagement as a source of pollution, as it holds the producer or possessor of the waste responsible for continuing liability even after it has been transferred to a third party, indicates that pollution does not have to be actual, but rather a failure to comply with environmental management is sufficient. This is also confirmed by Article (Legifrance, 2021b) L.161-1 which defines environmental damage as any significant negative change in soil or water resulting from the direct or indirect introduction of polluting substances, thus establishing an objective understanding of environmental pollution Article(Legifrance, 2021c) L.162-1 establishes the concept of objective liability for pollution by holding the perpetrator accountable for environmental damage resulting from professional activities, even in the absence of fault or negligence, provided a causal link between the activity and the damage is proven. Article (Legifrance, 2021d) L.211-1 of French law also highlights that the protection of water from environmental degradation is not limited to cases of actual pollution, but also includes anything that could affect the physical, chemical, or biological properties of water. This demonstrates the French legislator's tendency to adopt a broad, preventative concept of environmental pollution.

This legal framework is complemented by Article (Legifrance, 2021f) L.220-2 which provides an explicit definition of air pollution, stating that pollution consists of the introduction, directly or indirectly, by humans, or the presence in the atmosphere or enclosed spaces, of chemical, biological, or physical factors that cause harmful consequences or threaten public health or the environment, or affect the climate or property. This article clearly demonstrates that a potential environmental hazard is sufficient to trigger legal intervention, without the need for actual damage, thus enshrining the proactive approach that characterizes the concept of environmental pollution in French law. Although French environmental legislation does not provide a unified legal definition of the concept of "environmental pollution," it is understood through an integrated legal system that reflects a preventive and proactive approach to dealing with environmental damage. The perpetrator may be held accountable even in the absence of actual damage when there is a serious threat to the environment. This indicates that French lawmakers have tended to regulate the legal effects of pollution without being bound by a rigid conceptual definition. Conversely, we note that the absence of the concept of environmental pollution, particularly oil pollution, is due to the absence of a unified and precise legal definition of the environment. Jurists believe that the reason for this ambiguity is that environmental law emerged as a response to isolated environmental disasters without being based on a comprehensive theoretical framework. The traditional separation between legal and natural sciences has also weakened the legislator's ability to formulate a legal concept that accommodates the scientific and biological specificity of ecosystems. Thus, the environment has continued to be addressed through legal tools that are inconsistent with the complexity of its components, preventing the development of a precise definition of the subject of protection. (Meynier, 2017) Other jurisprudential studies confirm that the scope of the environment has expanded to include various natural elements such as air, soil, and living organisms, in addition to the social and cultural components surrounding humans. The overlap of natural and human factors, and the multiplicity of scientific disciplines concerned with them, leads to diverse perspectives and differing definitions. In addition, the evolution of environmental concepts such as sustainable development and climate change, and the divergence of legal contexts between countries, makes it difficult to unify the legal meaning of the environment (Duclaux-Monteil Ott, n.d.).

As a result of this ambiguity, it also becomes difficult to precisely define the concept of "environmental pollution," especially in complex cases such as the pollution of oil resources. It is difficult to agree on a unified framework for this concept in light of the differing definitions of the environment itself and the varying factors affecting it.

In the absence of an explicit and unified legal definition of "oil pollution" in most international agreements and national legislation, the need arises to formulate an interpretative vision of this concept that takes into account its unique nature and environmental and technical complexities. In this context, we refer to a specialized field study on Libya's oil-producing regions. The study demonstrated that oil pollution has multiple sources and forms, causing extremely serious environmental and health impacts. The most prominent of these sources is the water associated with extraction operations, which contains salts, heavy metals, and toxic hydrocarbons and is considered one of the most important causes of groundwater pollution. Other sources include gaseous emissions resulting from

combustion or gas separation, leakage of chemicals used in drilling, solid and liquid industrial wastes released without treatment, and accidental or intentional leaks from pipelines and storage tanks. These factors combined lead to the deterioration of air, water, and soil quality, disrupt ecosystems, and negatively impact public health (Emhanna et al., 2022).

This comprehensive technical description highlights that oil pollution is not an emergency with limited impact. Rather, it is a complex phenomenon with biological, physical, and health dimensions, which requires a specific legal framework that reflects its nature and establishes liability based on environmental damage and impact. Therefore, oil pollution can be defined based on these technical findings: "Oil pollution means any direct or indirect introduction of petroleum materials or their derivatives into the environment, whether as a result of exploration, production, transportation, or storage activities, or due to associated water, gaseous emissions, industrial waste, or other sources and forms associated with oil production, storage, and transportation operations, which leads or is likely to lead to a deterioration in air, water, or soil quality, or to an imbalance in the environmental balance, whether the resulting damage is immediate or cumulative and becomes apparent over time, resulting in legal liability or entitlement to compensation." While defining the concept of oil pollution from a jurisprudential perspective is important, the French experience demonstrates that legislation can achieve tangible effectiveness without the need for an explicit legal definition. This can be achieved by focusing on regulating the legal consequences of pollution and activating objective liability and preventive principles. Therefore, balancing conceptual clarity at the theoretical level with a practical approach at the implementation level represents a parallel option that can contribute to strengthening the Libyan legal framework related to environmental protection and compensation for damages resulting from oil pollution.

### **Legal Framework Law No. 15 of 2003 on the Protection and Improvement of the Environment**

Law No. 15 of 2003 on the Protection and Improvement of the Environment includes a comprehensive set of provisions to protect various environmental elements. Its chapters are devoted to regulating the protection of the atmosphere, seas and marine resources, water resources, food resources, soil, plants, wildlife, and biosafety. It also addresses environmental sanitation, protection against common diseases, and criminal penalties for violating its provisions. It concludes with concluding provisions. It should be noted that the provisions of the law are general and apply to various forms of environmental pollution, including land- and sea-based oil pollution. However, it does not specify specific provisions or regulations for this type of pollution. The law also focuses on establishing a regulatory and preventive framework for environmental protection, without including direct provisions related to civil liability or compensation for environmental damage, matters regulated by the Libyan Civil Code.

The same law imposes obligations on individuals and legal entities. Article 3 obligates all individuals and institutions, both national and foreign, to exert efforts to reduce pollution, take precautionary measures, prevent pollution when engaging in any activity, and remove it when it occurs. Article 4 also requires entities whose activities may result in environmental pollution to implement legal requirements, notify the competent authority when incidents occur, and provide the necessary equipment to combat pollution. Article 5 obligates public entities to implement programs and plans for environmental protection and rehabilitation. Regarding implementation mechanisms, the law stipulates the establishment of a special body to oversee and monitor the implementation of its provisions. Article 8 grants the Environment Public Authority the authority to inspect and supervise entities subject to the provisions of the law in the field of environmental protection, collect samples, and measure pollution levels. Article 9 also stipulates the establishment of an Environmental Police Department affiliated with the Environment Public Authority, which will carry out environmental inspection duties. Its members are granted the status of judicial police officers to detect environmental crimes and violations of the law, in accordance with the procedures stipulated in the Code of Criminal Procedure.

### **Scope of Civil Liability for Oil Pollution**

By examining the provisions of Law No. 15 of 2003 regarding the protection and improvement of the environment, we found no specific rules governing civil liability for environmental damage. Therefore, it was necessary to refer to the general rules of civil liability in the Civil Code.

### **Civil Liability According to Libyan Civil Law**

The Libyan legislator organized the provisions of tort liability in Chapter Three of Part One of the Civil Code under the heading "Unlawful Acts," dividing it into three sections: liability for personal acts, liability for third parties, and liability arising from things. The Libyan legislator codified the provisions of civil liability in the Libyan Civil Code by Royal Decree in 1954, influenced by the concept and nature of civil liability in French Civil Law. Liability for personal acts in Article 166 of the Libyan Civil Code is a general rule in tort liability, which states, "Every error that causes harm to a third party obligates the person who committed it to pay compensation." The text clearly indicates that liability has three elements: fault, harm, and a causal relationship between the two. It is

also clear that the basis of this liability is error that must be proven, and the objective theory is not adopted in any of its forms. Liability for the acts of a third party is addressed by the legislator in two cases, through Article 176, regarding the liability of the supervisor, which is based on a presumed error that can be proven otherwise. Articles 177 and 178, regarding the principal's liability for the actions of his subordinate, are based on presumed fault that cannot be proven to the contrary. We also note that liability for actions and animal custody, from Articles 179 to 181, is also based on presumed fault. This liability is closer to objective liability than to negligent liability.

Through this presentation, it becomes clear that the Libyan legislator, in regulating civil liability, relied on a fundamental principle based on provable fault in liability for personal acts, in addition to specific cases in which liability is based on presumed fault, such as the liability of a supervisor, principal, or guardian of objects or animals. Although this liability is close in some respects to objective liability, it remains within the orbit of liability based on fault, whether proven or presumed. Therefore, the general rules of civil liability in Libyan civil law were established primarily to address traditional individual damages and did not take into account the specific nature of complex environmental damages, including damages resulting from oil pollution. This raises the question of the suitability of these general rules for application to oil pollution cases, given the nature of these damages and the difficulty of proving the elements of liability therein, which will be addressed in the next part of this study.

### **Issues in Applying Civil Liability to Oil Pollution**

The specific nature of oil pollution, as a form of environmental pollution, raises numerous legal problems when attempting to apply traditional civil liability rules. This is due to the specific nature of environmental damage. It does not occur all at once (Al-Zaydiyin, 2020). Rather, its onset is delayed over a period of time, which may extend between the error committed by oil companies, represented by their failure to adhere to safety and prevention standards, and the occurrence of the environmental damage itself. Environmental damage is usually indirect, initially affecting natural environments, such as the air, soil, or water, and later affecting human health or economic activities (Muawi & Attika, 2019). This makes proving a causal relationship between the harmful act and the damage extremely difficult.

In this context, Article 166 of the Libyan Civil Code stipulates that for liability to be established, the damage must be a natural and direct result of the error. This is difficult to achieve in cases of environmental damage, as multiple factors, some of which are natural, contribute to the occurrence of this damage and delay its onset. Environmental damage is often of a complex technical nature, requiring the use of expensive scientific expertise and technical evidence to prove fault, damage, and the causal relationship between them. This constitutes an additional obstacle to victims' claims for compensation. In such cases, scientific evidence becomes an essential part of the legal process, providing the objective basis for proving the claim and ensuring that victims receive fair and proportionate compensation for the damages they have suffered. In addition, Libyan law has relied, in regulating civil liability, on a fundamental principle based on provable fault in personal liability. This also applies to specific cases in which liability is based on presumed fault, such as the liability of a supervisor, a principal, or a custodian of objects or animals. Although this liability may in some cases resemble objective liability, it remains within the orbit of liability based on fault, whether provable or presumed. Therefore, these rules do not seem appropriate for addressing oil pollution issues, given their specificities and complexities, which call for the search for more appropriate solutions, foremost among which is the adoption of objective liability based on damage, which will be discussed in the next section.

### **Objective Responsibility and the Theories that Explain It**

Objective liability is the liability for which a direct causal relationship between the harm and the act or activity is sufficient, in the absence of any error on the part of the responsible party, even if the act or activity that caused the harm was itself sound or valid (Al-Maqsoud & Muhammad, 2021). Objective liability is a legal concept that originated and developed within the Latin legal system, particularly in French civil law, which is the historical source of Libyan civil law. Industrial progress at the end of the nineteenth century led to an expansion of the scope of civil liability based on considerations of justice and social solidarity. A group of commentators, led by Salli, Josran, and Savitt, argued that liability should be based on the concept of harm, not on the concept of error. This is because whoever engages in an activity bears its consequences and must compensate others who suffer harm from it, even if their behavior was not tainted by any error. French law formulated the "objective theory," contrasting it with the personal theory, which is based on error (Jawadi et al., 2020). Among the theories that explain or support the concept of objective liability are: The liability theory is based on the premise that whoever engages in a particular activity that benefits them bears the responsibility for any harm that may result from this activity to others, in order to achieve the principle of social justice. This theory was advocated by French legal scholars Salli, Josran, and Savitte, as a counter to the personal theory based on fault. These scholars believe that personal liability is no longer compatible with logic or modern economic development. There is no longer any point in retaining fault as the basis for civil liability, as it has been separated from criminal liability. Civil

compensation is now intended to compensate for harm, not impose punishment (Al-Sanhouri, 2010). Fault-based liability is also incompatible with the industrial economic system, where modern inventions have become both a source of livelihood and a source of danger. It is only fair that those who benefit from these activities bear the responsibility for the resulting damages. The theory limits its scope to activities characterized by being highly beneficial, frequently hazardous, and easily insured against, making the application of objective liability easy and painless. The fundamental difference between personal liability and objective liability is that the former is based on fault, even if presumed, while the latter is based on the mere occurrence of damage, and the person liable is the beneficiary of the activity, not merely its guardian. Therefore, under objective liability, the person liable cannot defend himself by denying fault or proving an external cause; it is sufficient for the damage to have occurred as a result of his activity for him to be obligated to pay compensation. Therefore, the elements of liability theory are based on the element of risk, the source of which is the harmful activity that caused the damage. In addition to this element, the presence of the element of harm, regardless of its nature, is required, along with the necessity of a causal relationship between the harmful activity and the resulting damage. This means that the harmful activity is the cause of the damage that occurred, meaning that the activity must be necessary for its occurrence, such that it can be said that were it not for the harmful activity, the damage would not have occurred.

Oil pollution cases are among the most prominent practical applications that embody the urgent need to adopt objective liability in the environmental field. This is particularly true given that oil activity is considered a hazardous industrial activity, which can lead to serious damages that are difficult to remedy or limit. In such cases, the injured party is often unable to prove the existence of a specific fault committed by the perpetrator, rendering the traditional requirement of liability inappropriate. Therefore, it becomes necessary for civil liability in this area to be based on the occurrence of damage and the causal relationship, without requiring fault. This is consistent with objective liability, which constitutes the general framework for several legal theories, most notably the theory of liability, which aims to promote environmental justice in the face of hazardous industrial activities. In this context, French legislation can be considered, which is considered one of the most prominent systems to adopt objective liability in the environmental field, particularly in hazardous activities. Here, we refer to two previously discussed articles: Article L.162-1 of the French Environmental Code, which stipulates that the perpetrator may be held liable for environmental damage resulting from hazardous professional activities, even in the absence of fault or negligence. Article L.110-1 of the same code, which recognizes natural resources, air quality, and biological balances as the common heritage of the nation, enshrines legal principles such as the precautionary principle, the prevention principle, and the polluter pays principle. These principles give the environmental system a preventive and deterrent character, as the perpetrator may be held liable for an activity that poses a serious risk to the environment, even in the absence of actual damage. This enhances the effectiveness of legal protection of the environment in the face of high-risk industrial activities, most notably oil pollution.

In an extension of this approach, the manifestations of objective liability are not limited to the legislative level, but are also reinforced by judicial applications in environmental pollution cases, particularly at the international level. The Spanish Supreme Court's ruling in the Prestige case (January 2016) is one of the most prominent examples establishing objective liability in the context of marine oil pollution. The court ruled that the captain was criminally liable for an environmental crime resulting from gross negligence, and imposed on him, the shipowner, and the insurance company expanded civil liability, based on Article 4/A of the 1992 CLC Convention, which allows for limits of liability in the event of proven gross negligence. The court also relied on Article 45 of the Spanish Constitution to assess unlimited compensation, including pure and moral environmental damage. This ruling embodies a practical application of the philosophy of liability theory, which holds the party conducting a hazardous activity—such as the maritime transport of petroleum products—responsible for any damages resulting from its activity, provided that such damages are proven to be related to the activity itself, without requiring the presence or negligence of the direct perpetrator. This reflects a shift toward a compensation system based on damages rather than fault.

The above demonstrates that objective liability provides an effective legal mechanism for dealing with oil pollution damages, especially given the difficulty of proving fault in this type of case. It has become imperative for legal systems, particularly in countries affected by oil pollution, to reconsider the adequacy of their traditional legislative frameworks.

The preceding analysis shows that Libyan law still lacks a clear foundation for civil liability for oil pollution damages, both in terms of defining oil pollution and adopting legal models based on objective liability, as is the case in the French experience. The study also revealed the theoretical and practical challenges associated with proving error and causality in environmental issues, reinforcing the need for a critical analysis of previous studies at the international and national levels to identify the knowledge and legislative gaps that this study aims to address.

## FINDINGS AND DISCUSSION

## **The Legislative Generality of Law No. (15) of 2003 Regarding the Protection and Improvement of the Environment Creates a Regulatory Gap in Dealing with Oil Pollution**

The absence of a specific regulation for oil pollution in Law No. (15) of 2003 on the Protection and Improvement of the Environment weakens its effectiveness in protecting those affected by oil pollution. Although this law includes comprehensive provisions regulating various environmental elements, its provisions are generally formulated to apply to all forms of pollution from various industrial activities, including the oil and gas industry. It is noteworthy that this law adopted a regulatory and preventative approach focused on reducing pollution and preventing its causes. Articles (3), (4), and (5) outline the obligations of individuals and institutions to reduce, report, and address pollution. However, it neglected to include direct provisions relating to civil liability, contenting itself with regulating it in civil law.

This problem is further complicated in the Libyan case due to the specific nature of oil pollution, in terms of its multiple forms and manifestations and its cumulative impact on environmental resources and public health. In the absence of a specific regulation that reflects the specificity of this type of pollution, judicial interpretation remains subject to the generality of the texts, weakening the ability to hold responsible parties accountable and complicating the efforts of those affected to obtain their right to compensation.

Although the General Authority for the Environment was granted oversight powers under Article (8), and Article (9) provided for the establishment of an environmental police force, this body was not activated until 2022 by Cabinet Resolution No. 42 (Al-Libi, 2022).

However, its duties are limited to oversight and inspection, without direct powers to support those affected or assess damages, which limits the effectiveness of the executive framework in dealing with oil pollution.

Some Libyan studies, such as those by Amhedi (2017) and Al-Sharkasi (2017), have examined Law No. (15) of 2003 from the perspective of criminal protection, focusing on environmental crimes, penalties, and inspections, without analyzing the shortcomings of civil protection or addressing the issue of compensation for environmental damage, particularly resulting from oil pollution. The study by Abdel Salam et al., while important in shedding light on the procedural obstacles to accepting compensation claims, such as the requirement of standing and interest, and the role of environmental protection associations, did not address the civil liability of oil companies or the legal and evidentiary challenges facing those affected by land-based oil pollution. This highlights a clear research gap in the national literature, represented by the absence of legal studies examining those civilly liable for oil damages. Based on the above, this result demonstrates that the general formulation of Law No. (15) of 2003 on the Protection and Improvement of the Environment, and its lack of specific and direct regulation of oil pollution, creates a regulatory gap that hinders the effectiveness of legal protection for those affected. This necessitates a review of the Libyan environmental legislative framework by developing mechanisms to regulate private civil liability for oil pollution and aligning them with the characteristics of this type of damage, ensuring effective environmental protection and compensatory justice for victims.

### **Civil Liability based on Fault is Insufficient to Address Damages Resulting from Oil Pollution**

Traditional civil liability rules based on proving fault are inappropriate for addressing oil pollution damages. It has previously been shown that the Libyan Civil Code's civil liability rules have adopted a traditional model based on provable fault as the basis for imposing liability for harmful acts. Article 166 of the Code considers the basic rule of liability for personal acts. Any person who commits a fault resulting in damage is obligated to pay compensation. This is inconsistent with the technical and environmental specificity of oil pollution damages, which often appear after a delay and result from the interaction of multiple factors, making it difficult to prove a direct causal relationship between the act and the damage. In oil pollution cases, the damage is often indirect, affecting environmental elements first before its effects become apparent. Although Libyan Civil Code includes some forms of liability based on presumed fault, such as the liability of a supervisor, principal, or custodian of objects, these forms remain within the conceptual framework of tort liability and are not based on environmental damage as independent of fault. Consequently, it is impossible to provide protection for damages resulting from oil pollution. Therefore, it is necessary to reconsider the legal basis for liability in this area, by adopting the theory of objective liability based on damages, thus enhancing the ability of those affected to obtain fair compensation.

The above findings reinforce the findings of some international studies revealing shortcomings in addressing the compensatory dimension in oil pollution cases, such as the studies by Sabela-Rikhotso et al. (2021) and Zaati Abadee et al. (2025) which focused on international legal and preventive frameworks without addressing the challenges associated with proving causation or holding companies accountable for environmental damages. This same shortcoming is clearly evident in the Libyan legal system, where liability is linked to fault in Libyan Civil Law, as clearly stated in Articles (166) and (176 to 1881). This is inconsistent with the nature of oil pollution damages, which are characterized by technical ambiguity, cumulative damages, and a time delay in their emergence, complicating the proof of fault. Therefore, the exclusive reliance on the traditional tort liability model constitutes a research gap that has not been addressed by previous studies, especially since these studies were based on the

experiences of countries with advanced or relatively stable legislative frameworks. In contrast, the current study seeks to address this gap by advocating for the adoption of a substantive liability model as a more realistic and equitable approach to environmental damage. Based on the above, it becomes clear that the traditional basis of liability based on fault is no longer sufficient to ensure effective protection from the complex environmental damage caused by oil pollution. Therefore, the transition towards adopting substantive liability rules based on harm rather than fault represents a necessary step towards promoting environmental justice.

### **Adopting Objective Liability Enhances the Efficiency of the Environmental Legal System in Addressing Oil Damages**

The results of the theoretical analysis showed that the objective liability model represents a more appropriate legal framework for dealing with environmental damage resulting from oil pollution, especially in the Libyan context, characterized by a weak environmental legislative structure and the difficulty of proving evidence in complex technical cases. While traditional liability in Libyan civil law is based on fault, applying this model in oil pollution cases is impractical due to the delayed onset of damage and the overlapping of causal factors, which makes proving causation a complex issue for victims.

The theoretical framework demonstrated that objective liability, supported by the theory of liability, provides a legal basis that focuses on the occurrence of damage and the emergence of a causal relationship without the need to prove fault, enhancing the chances of victims obtaining effective compensation. This approach is consistent with the established principles of some comparative legislation, such as French environmental law, which allows the perpetrator to be held accountable for dangerous activity even in the absence of fault or negligence, as evidenced by Article L. 162-1, and by international judicial applications, such as the Spanish Supreme Court ruling in the Prestige case, which established liability for environmental damage based on damage rather than fault. However, another issue remains, even with the adoption of objective liability: the difficulty of proving a causal relationship. While objective liability reduces the burden of proof, another challenge arises: the difficulty of proving a causal relationship. While the relationship is clear in cases of direct damage, the difficulty increases in cases of widespread or chronic pollution (such as air or groundwater pollution), where it is difficult to accurately determine the responsible party. Furthermore, proving this relationship often requires advanced and expensive scientific or medical studies, such as epidemiological studies, especially in cases affecting human health (Boyer, 2011).

This financial burden is heavy on victims, leading to difficulty accessing justice. From this perspective, the role of the state emerges in providing legal and technical assistance to those affected, particularly by appointing specialized experts through the courts or competent government agencies to provide the necessary scientific evidence to support claims for compensation for environmental damage. Therefore, scientific evidence is an integral part of legal evidence in environmental pollution cases. This evidence is an essential foundation for proving the causal relationship between the polluting activity and the damage, enabling victims to obtain fair and appropriate compensation.

In the Libyan context, the General Environment Authority is supposed to assume this role, in accordance with Article 8 of Law No. 15 of 2003 on Environmental Protection and Improvement, which authorizes it to collect samples and measure pollutant levels. However, implementing this role requires technical and financial support, given the high cost of specialized equipment and devices for analyzing oil pollutants, identifying their effects, and linking them to environmental damage. The literature review also revealed that previous studies focused on the enforcement of environmental laws and institutional reforms without adequate analysis of the appropriate legal liability for compensating for environmental damages. They also did not address the difficulties of proof and the causal relationship in land-based oil pollution cases. This shortcoming highlights a research gap related to the absence of a comprehensive study linking objective liability and environmental compensation in the Libyan context.

In conclusion, adopting objective liability to address oil pollution damages is not only a more appropriate legal option, but also a legislative necessity in the Libyan context to ensure environmental justice. Bridging legal and procedural gaps, particularly with regard to proving causation and providing technical support to victims, is a prerequisite for the effective implementation of this model. Accordingly, the development of the Libyan legal framework must move toward enshrining objective responsibility, while establishing supportive institutional mechanisms to strengthen the rights of victims and enable them to access fair compensation.

## **CONCLUSION AND RECOMMENDATIONS**

This study concluded that the Libyan legal framework still suffers from a clear deficiency in addressing civil liability for environmental damage resulting from oil pollution. The analysis revealed that Law No. (15) of 2003 on the Protection and Improvement of the Environment, despite its preventive provisions, does not contain specific

regulations for civil liability and compensation mechanisms for such damages. The study also revealed the weak suitability of the general rules of civil liability based on fault, which are difficult to apply in complex environmental cases, particularly given the difficulty of proving causation and the time delay in the occurrence of damages.

The results showed that adopting objective liability as an alternative to traditional tort liability is more just and effective, as it provides protection to victims and reduces the burden of proof. The study also revealed that another challenge facing those affected is the financial cost of proving causation. The lack of a specialized environmental evidence body also constitutes practical obstacles preventing those affected from obtaining their rights. Based on the above, the study recommends the following:

1. Issuing a special law to protect the environment from oil pollution, including detailed provisions on civil liability and compensation mechanisms for damages resulting from oil extraction, transportation, and processing activities. This is in light of the vast geographic area of oil regions in Libya and the recurring environmental damage they experience, which requires special and comprehensive legislative treatment.

2. Adopting a legal system based on objective liability in oil pollution cases, which reduces the burden of proof on those affected and ensures their redress, given the complex nature of environmental damage, the effects of which are often delayed in becoming apparent and where it is difficult to accurately identify the person directly responsible.

3. Establishing an independent technical body or supporting the technical structure of the General Environment Authority with specialized laboratory and field capabilities, which will be responsible for collecting scientific evidence, assessing environmental damage, and providing technical expertise to the judiciary. This will contribute to strengthening the legal evidence of those affected by oil pollution.

4. Promoting legal and environmental awareness in oil regions through educational and media programs aimed at empowering local residents to understand their legal rights and the means to claim compensation.

5. Strengthening the role of regulatory bodies and environmental agencies, headed by the Environmental Police Department, which was activated pursuant to Cabinet Resolution No. (42) of 2022 in implementation of Article (9) of Law No. (15) of 2003 regarding the protection and improvement of the environment, by empowering it institutionally and technically with its tasks in monitoring and documenting environmental damage, and supporting the efforts of those affected in proving damage and demanding compensation, in a way that consolidates the principles of fairness and environmental justice. Based on the above, this study confirms that reforming the legal system related to oil pollution in Libya is no longer an option, but rather a necessity to achieve environmental justice and ensure effective compensation for those affected. Adopting objective liability and updating relevant legislation are pivotal steps toward a more equitable legal system that is more responsive to the complex nature of environmental damage. The study hopes that its recommendations will enrich the legal debate and contribute to the development of national environmental policies.

## REFERENCES

Abdul Salam Abdul Jalil, A. a. M. A., A. (2022). The claim for compensation for environmental damages: A comparative study. *Sirte University Journal for Humanities*, 11(2), 473-522. <https://doi.org/10.37375/sujh.v11i2.250>

Al-Maqsoud, A., & Muhammad, M. Sh. (2021). Objective Liability: Foundation and Application. *Journal of Legal and Economic Studies*, 7(2), 917-949.

Al-Sharkasi, M. M. (2017). criminal protection of the environment in Libyan legislation. *The Nile Valley Journal for Human, Social, and Educational Research* 15, 341-370. (Cairo University, Faculty of Al-Adab - Egypt)

Al-Sanhouri, A. (2010). Al-Wasit fi Sharh al-Qanun al-Madani "The Theory of Obligation in General, Sources of Obligation," (Vol. Part One). Maaref Foundation.

Al-Zaydiyyin, Dr. N. M. M. (2020). Fair Compensation for Environmental Harm resulting from Internationally Wrongful Acts and the Basis of Civil Liability Therefor: Dr. Nawaf Musa Muslim Al-Zaydiyyin. *Jordanian Journal of Law and Political Science*, 12(1).

Amheydi, M. A. (2017). The criminal protection of the environment in light of Law No. (15) of 2003 on the protection and improvement of the environment protection of the environment and sustainable development in areas adjacent to oil fields, Ajkharah, Libya.

Boltanova, E. S., & Kratenko, M. V. (2022). The specific nature of environmental damage and the 'conventionality' of its assessment as factors hindering the development of environmental insurance in the Russian Federation. *Asia Pacific Journal of Environmental Law*, 25(1), 7-27.

Boyer, M. (2011). Les limites de la responsabilité environnementale ou la consécration d'un droit à polluer ? In M. Boyer (Ed.), *Le droit de l'environnement: entre efficacité et légitimité* (pp. 171-192). Presses universitaires d'Aix-Marseille. <https://books.openedition.org/puam/1270>

Duclaux-Monteil Ott, C. (n.d.). *Droit et protection de l'environnement – Module 1*. Objectif 2030, Organisation internationale de la Francophonie. Retrieved July 20 from [https://www.objectif2030.org/media/modules\\_pdf/DENV\\_Module1\\_V3.pdf](https://www.objectif2030.org/media/modules_pdf/DENV_Module1_V3.pdf)

Emhanna, S., Elsakran, S., & Attia, A. (2022). Environmental and health problems associated with oil and gas production in the Oil Crescent and Southeastern regions, Libya. *Journal of Marine Sciences and Environmental Technologies*, 8(1), 17-34 <https://www.researchgate.net/publication/365873401>

Funds, I. O. P. C. (2018). *Liability and compensation for oil pollution damage: Texts of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol*. International Oil Pollution Compensation Funds. Retrieved 18/ June from <https://iopc-funds.org/publications/iopc-funds-publications/#>

Jawadi, Yousef, Hina, B., & Al-Sheikh. (2020). Evolution of the Basis of Civil Liability.

Legifrance. (2021a). *Code de l'environnement - Article L.110-1*. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000041599138](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041599138)

Legifrance. (2021b). *Code de l'environnement - Article L.161-1*. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000043143781](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000043143781)

Legifrance. (2021c, July 08, 2025). *Code de l'environnement - Article L.162-1*. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000043143832](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000043143832)

Legifrance. (2021d, July 08, 2025). *Code de l'environnement - Article L.211-1*. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000041553439](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041553439)

Legifrance. (2021e). *Code de l'environnement - Article L.541-2*. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000042036105](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042036105)

Legifrance. (2021f). *Code de l'environnement - Article L.220-2*. Legifrance. Retrieved July 08 from [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000022494826](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000022494826)

Maruf, A. (2021). Legal aspects of environment in Indonesia: An efforts to prevent environmental damage and pollution. *Journal of Human Rights, Culture and Legal System*, 1(1).

Meynier, A. (2017). *Réflexions sur les concepts en droit de l'environnement* Université Lyon 3 Jean Moulin].

Muawi, & Atiqa. (2019). Environmental Harm's Characteristics: Social and Humansciences review Journal of Social and Human Sciences, 20(1), 239-256.

Nations, U. (1982). *United Nations Convention on the Law of the Sea*. Retrieved 15/ June from [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

Olujobi, O. J., Yebisi, T. E., Patrick, O. P., & Ariremako, A. I. (2022). The legal framework for combating gas flaring in Nigeria's oil and gas industry: can it promote sustainable energy security? *Sustainability*, 14(13), 7626.

Russell, V. (1974). Pollution: Concept and definition. *Biological Conservation*, 6(3), 157-161.

Sabela-Rikhotoso, P. T. Z., van Niekerk, D., & Nemakonde, L. D. (2021). A critical analysis of the legal frameworks governing oil spill management in South Africa. *Marine Policy*, 127, 104433.

United, N. (1972, 2024/04/28). *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)*. Retrieved 15/June from <https://www.un.org/en/conferences/environment/stockholm1972>

Zaati Abadee, R., Nikkhah Saranghi, R., & Jafarzadeh, S. (2025). Ethical Considerations in Protecting the Marine Environment from the Effects of Oil Pollution and Its Support by International Law. *International Journal of Ethics and Society*, 6(4), 29-39.