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# **ABSOLUTE, STRICT, AND VICARIOUS LIABILITY: DOCTRINAL EVOLUTION AND CONTEMPORARY RELEVANCE**

**-Vinayak Gaur<sup>1</sup>**

## **ABSTRACT**

This project is a comparative exploration of three fundamental doctrines of tort law—Absolute Liability, Strict Liability, and Vicarious Liability—and will track the historical context, statutory and common law differences and application in practice. The study will contextualize data from primary and secondary sources through research including but not limited to expert interviews and survey data from the public by exploring how these doctrines operate in different countries and what legal applicability they carry in the current legal landscape of environmental harm, multi-employer work sites and modern work, gig economy structures.

The comparative work will illuminate the conceptual approaches, statutory differences, and the social context and relevance of each doctrine in an ever-growing industrialized world, and a rise in the gig economy, among other emerging work structures. Using a doctrinal analysis and empirical research, the project will clarify when each quality of liability applies; and we hope to show a meaningful understanding of liability and accountability for civil justice.

## **INTRODUCTION OF THE PROJECT**

This project aims to look at the three doctrines of liability in a comparative comprehensive manner. This is based on how the doctrines have developed historically from their key legal principles to landmark case laws. This research will explain the similarities and differences of these liabilities, pointing out the implications that could serve justice, accountability, and welfare for society.

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Liability in tort law is, in many ways, the building block for accountability in claims to harm or injury with regard to justice and equity in civil disputes.

Among all liability doctrines, Absolute Liability, Strict Liability, and Vicarious Liability are the essential doctrines that address different scenarios. Absolute Liability has emerged <sup>2</sup>as the most stringent form of liability in Indian jurisprudence. Absolute liability imposes liability without exception and, more particularly in cases of hazardous or dangerous operations.

Strict liability, based on the common law of England<sup>3</sup>, makes the parties liable for harm caused by dangerous activities that are intrinsically dangerous, with exceptions to acts of God or consent from the plaintiff. Relational vicarious liability introduces a relationship element to the law, attaching liability to one party as a result of its connection to another-for example, employer-employee or principal-agent connection.

## **RATIONALE**

The reason why this project on "A Comparative Analysis: Absolute Liability, Strict Liability, and Vicarious Liability" was selected was due to its deep significance in understanding the legal frameworks that underpin modern civil liability systems. The rationale for undertaking this study is based on the following considerations:

### **I. THEORETICAL AND PRACTICAL IMPORTANCE**

The doctrines of Absolute Liability, Strict Liability, and Vicarious Liability are some of the most important tenets of tort law and have widespread applications in the resolution of disputes. A more profound understanding of these principles is crucial to the comprehension of how liability is assigned in different contexts, from industrial accidents to employment relationships. This study bridges the gap between theoretical knowledge and real-world implications.

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<sup>2</sup>Originated from M.C. Mehta v. Union of India, AIR 1987 SC 1086.

<sup>3</sup> Rylands v. Fletcher (1868) LR 3 HL 330.

## **II. RELEVANCE IN CONTEMPORARY LEGAL AND SOCIAL ISSUE**

These doctrines are essential to modern legal issues in an era of rapid industrialization, environmental crises, and changes in workplace dynamics. Absolute Liability is of great importance for environmental degradation<sup>4</sup> and hazardous industrial activities. Strict Liability provides a delicate balance between <sup>5</sup>the public good and compliance with regulation. Vicarious Liability makes the employer responsible for the increasingly complex employment relationship, such as the gig economy.

Through an in-depth analysis of these doctrines, the project strives to emphasize their use and applicability in light of emerging social challenges.

## **III. COMPARATIVE LEGAL STUDY**

The jurisdictional variations within which these doctrines are interpreted and applied are significantly different. As for example

Absolute Liability finds significant application under Indian jurisprudence, following the Bhopal Gas Tragedy. Strict Liability is an important tool applied in the administration of Western Legal Systems in regulation offenses. Vicarious Liability has undergone huge changes in developing non-traditional employment relationships.

This comparative approach of the project will reveal best practices and lessons from different legal systems.

## **IV. CONTRIBUTION TO LEGAL EDUCATION AND PRACTICE**

The doctrines that are studied in this project are integral to legal education and practice. By engaging with leading advocates, analyzing key cases, and surveying individuals from diverse backgrounds, this project will provide a holistic view that can benefit students, practitioners, and policymakers alike.

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<sup>4</sup> Reference to Bhopal Gas Tragedy and subsequent Supreme Court judgment.

<sup>5</sup> Refer to American Restatement (Second) of Torts or UK case law.

## V. ADDRESSING THE NEED FOR PUBLIC AWARENESS

These doctrines interact with large parts of the society unknowingly, either through their roles of employees, customers, or otherwise. The results of this research will further clear the concepts among non-legal people and become more approachable. 6. Personal Interest and Academic Growth

This project aligns with a keen interest in understanding the interplay between law and societal needs. The comparative nature of the study offers an opportunity to develop critical research and analytical skills while contributing to a nuanced area of legal scholarship.

In conclusion, this project has been selected to answer the growing demand for a holistic analysis of liability doctrines, their social implications, and their likely development in light of modern challenges. This rationale underlines the academic, practical, and personal significance of the project.

## STATEMENT OF THE PROBLEM

Legal doctrines like Absolute Liability, Strict Liability, and Vicarious Liability form integral parts of tort law; however, their distinctions, applications, and implications have been under discussion and interpretation up to the present.

Such doctrines, in a bid to ascertain accountability and justice, sometimes do have their specific requirements and defenses vary with considerable extents with significant implications to society and, hence can lead to confusion and inconsistency. In the new legal landscape, it often becomes ambiguous to find which doctrine will apply to a given case, especially in cases concerning industrial accidents, environmental hazards, or employer-employee relationships.<sup>6</sup> For instance, how far Absolute and Strict Liability extend into hazardous activities, or how far responsibility stretches in Vicarious Liability, are issues that often create ambiguity.

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<sup>6</sup> Kenneth S. Abraham & Catherine M. Sharkey-Yale Law Review

However, a strict approach like Absolute Liability in India contrasts with traditional Strict Liability under English law, and it is pertinent to make it clear regarding the development of these doctrines in different jurisdictions.

It seeks to answer the most essential questions:

*How do the principles of Absolute Liability, Strict Liability, and Vicarious Liability differ in terms of legal requirements and defenses?*

*What are the practical challenges that apply these doctrines to reality?*

*How do these liabilities bring together the interests of an individual and society with respect to the need for justice?*

## **OBJECTIVES OF THE PROJECT**

The objectives of the project are as follows-

To explore the doctrines of Absolute Liability, Strict Liability, and Vicarious Liability. Understand the key legal requirements and defenses available under each doctrine.

Highlight the similarities and differences in their application across various jurisdictions.

To analyze the practical challenges in applying these doctrines. Identify real-world scenarios where these liabilities are invoked.

Explore the ambiguities, conflicts, or inconsistencies in their application to contemporary legal issues. To determine the role that these liabilities play in balancing personal and social interests

Analyze how these doctrines foster justice by holding people accountable.

## **RESEARCH METHODOLOGY**

The research uses a comprehensive methodology of qualitative and quantitative methods to understand Absolute Liability, Strict Liability, and Vicarious Liability in depth. It is structured below-

## 1. PRIMARY DATA COLLECTION

### A. INTERVIEWS WITH SUPREME COURT ADVOCATES

To explore the practical use and judicial decision of these doctrines of liability from experts, this study will interview the following law professionals online <sup>7</sup>(names not disclosed because of privacy)

### POINTS FOR DISCUSSION

#### **Absolute Liability**

*How has the doctrine fared after the Bhopal Gas Tragedy in India?*

*Implications on the regulation of the environment and industries.*

#### **Strict Liability**

*The conflict between regulatory requirements and individual rights.*

*Recent case examples where strict liability was used.*

#### **Vicarious Liability**

*Wider meanings in the context of modern workplace and gig economy.*

*Employer Liability in Different Forms of Employment by Judiciary.*

My Observations: The interviews offered great insight into how the courts apply and comprehend liability doctrines. The views from the experts will be supported with case laws and thereby provide strength to the understanding by the court judgments.

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<sup>7</sup> Confidentiality disclaimer- as mentioned by the advocates.

## B. PEOPLE'S SURVEY

From 30 persons, a structured survey has been taken and divided into the following categories:

10 Undergraduate Students: To understand basic knowledge of liability doctrines.

10 Postgraduate Students: To further broaden research in advanced academics.

10 Professionals: To seize workplace and societal impacts and perceptions with practical implications

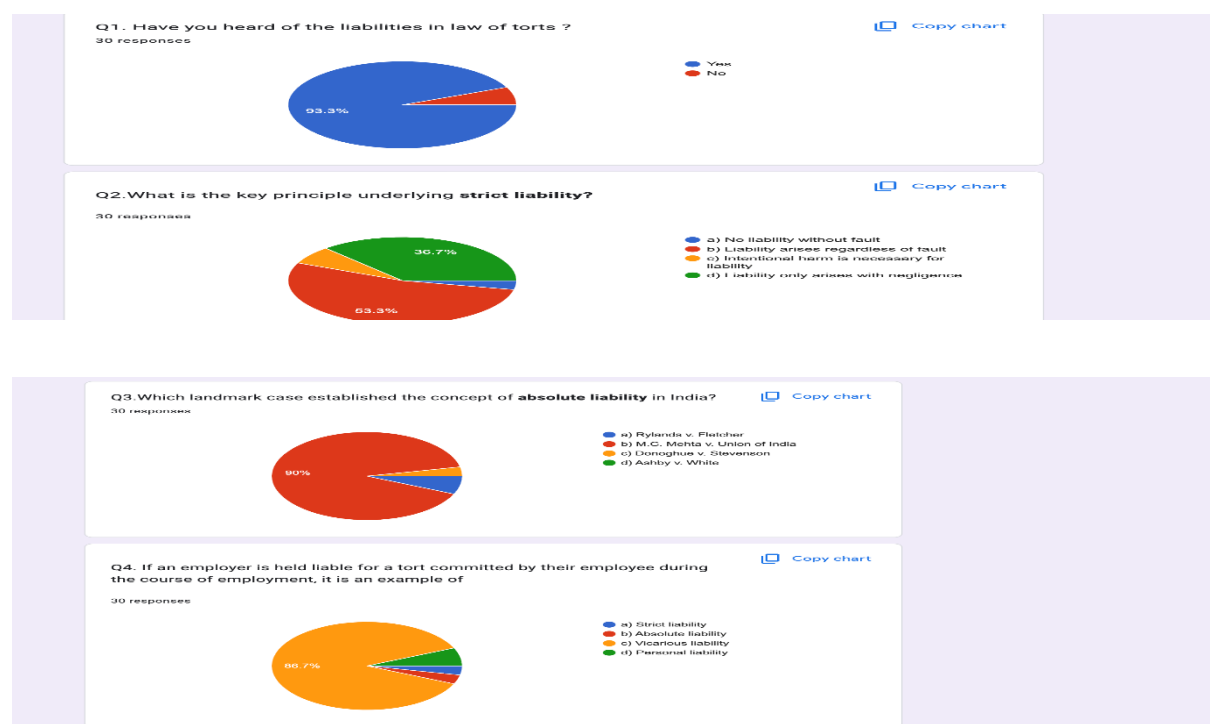
## KEY QUESTIONS ASKED IN THE SURVEYS

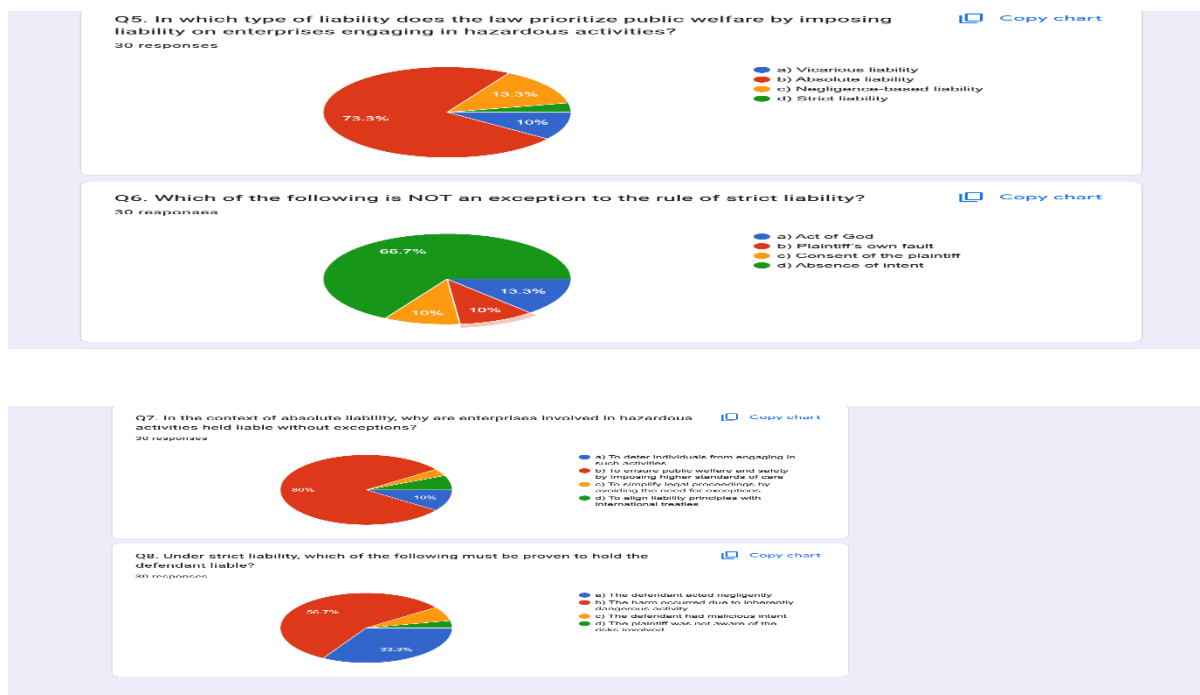
What is the key principle underlying strict liability?

Which landmark case established the concept of absolute liability in India?\*

If an employer is held liable for a tort committed by their employee during the course of employment, it is an example of

Following were the responses of individuals





## 2. SECONDARY DATA COLLECTION

### A. REVIEW OF LEGAL LITERATURE

Required information was taken from the below attached sources

*Sornarajah's thoughts on strict liability offenses in Singapore and Malaysia (Malaya Law Review)*

*Shavell's comparative framework for strict liability and negligence (Journal of Legal Studies)*

*Miller's foundational principles of Absolute Liability (Washington University Law Quarterly)*

### B. UNIVERSAL LAW BOOKS AND JOURNALS

Analysis of variously published legal texts and journals<sup>8</sup> will be undertaken to achieve wider understanding of the principles, development, and usages of Absolute Liability, Strict Liability, and Vicarious Liability. These books and journals will form a basis for conducting doctrinal analysis and discussing the relevant case laws from various jurisdictions.

<sup>8</sup> Clerk & Lindsell on Torts, 23rd ed., Sweet & Maxwell.

## REFERENCES INCLUDE

A. Winfield and Jolowicz on Tort by Edwin Peel & James Goudkamp-A comprehensive textbook on tort law, which outlines the principles of liability in full detail, ranging from Absolute and Strict to Vicarious Liability. It is enriched with references to landmark cases and statutes across the common law jurisdictions.

B. Clerk & Lindsell on Torts by Michael A. Jones-This authoritative guide describes the fundamental doctrines of tort law with a focus on how these have been shaped in practice and developed in various countries.

## 3. ANALYSIS AND COMMENTARY

### A. EXPERT COMMENTARY

The views of the Supreme Court advocates was thematically analyzed to show trends, divergences, and judicial preferences. Their practical insights was contextualized within the broader theoretical framework.

### B. SURVEY FINDINGS

Public awareness and acceptance will be determined from the survey. Differences in responses from undergraduates, postgraduates, and professionals will provide insight into where knowledge meets the practical.

### C. MY THOUGHTS ON DOCTRINES OF LIABILITY

Absolute Liability: An innovative measure for the benefit of public at large. In this sense, it's "polluter pays," but the very element that it doesn't leave much for the defendant to be defended for the harm done.

Strict Liability: Offers a middle ground but is vulnerable to misinterpretation and misuse, especially in cases of ambiguous statutory language.

Vicarious Liability: Increasingly critical in modern employment landscapes. The doctrine's adaptability to address issues in gig economies demonstrates its ongoing relevance.

## **RESEARCH DESIGN**

This project involved a descriptive and analytical research design that also adopted both qualitative and quantitative methods in the process of describing these liability concepts, namely Absolute Liability, Strict Liability, and Vicarious Liability. Primary and secondary data will be used for this study, allowing me to give a richly detailed description of these doctrines of liability.



### **1. NATURE OF DATA/INFORMATION COLLECTED**

The data and information that were collected for the project were diverse, focusing on both the theoretical foundations and practical applications of the subject matter.

#### **QUALITATIVE DATA**

Study scholarly articles and universal law books to understand the doctrinal basis and statutory structures across jurisdictions.

#### **QUANTITATIVE DATA**

A focused survey was taken among respondents belonging to different educational and professional streams in order to judge their perception and understanding of these doctrines of liability.

## **2. SOURCES OF DATA/INFORMATION**

### **PRIMARY SOURCES**

Interviews with Advocates: The views of the Supreme Court advocates was thematically analyzed to show trends, divergences, and judicial preferences. Their practical insights was contextualized within the broader theoretical framework.

These conversations threw a lot of light on the real-life implications of Absolute, Strict, and Vicarious Liability in the modern legal arena.

Responses from the Survey: In the survey, there were

30 respondents consisting of:

10 Undergraduate students

10 Post graduate students

10 Working professionals.

Their responses portrayed different opinions of the applicability and efficacy of such doctrines in today's scenario.

### **SECONDARY SOURCES**

#### **1. BOOKS AND JOURNALS**

Book: Universal law books such as Winfield & Jolowicz on Tort, Clerk & Lindsell on Torts was referred to comprehend the theoretical aspects.

Scholarly articles and critical analysis in Harvard Law Review and Yale Law Journal were reviewed.

## 2. CASE LAWS AND STATUTORY PROVISIONS

Study of landmark cases and related statutory developments was done to present the aspects of general legal liability of jurisdictions under evolution.

**Some key cases among them are as follows:**

• M.C. Mehta v. Union of India (Absolute Liability, India).

• Rylands v. Fletcher (Strict Liability, UK).

• Bazley v. Curry (Vicarious Liability, Canada).

Some of the literature that was drawn from include, "Defences to Strict Liability Offenses in Singapore and Malaysia" (Malaya Law Review), "Strict Liability Versus Negligence" (Journal of Legal Studies) and "A Primer of Absolute Liability" published by Washington University Law Quarterly Comparative insights

## III. ANALYTICAL FRAMEWORK

The qualitative information obtained through interviews as well as literature would be thematically analyzed to discover patterns, trends, and approaches used by judicial arms.

The survey-based quantitative data was analyzed statistically in terms of awareness and perception of liability doctrines among the populations.

The study of the different legal systems together provided an integrated view of the workings of Absolute, Strict, and Vicarious Liability in a world context. Thus, the study design involved both balance and completeness in investigating liability doctrines while fusing the realms of theoretical understanding and practical uses together with popular opinions.

## SAMPLE AND SAMPLING METHODS WITH RATIONALE

Sample-The sample in this study involved 30 subjects, stratified into three separate groups for variability and representativeness:

I. Undergraduate Students (10 respondents): Recruited to assess the base knowledge of Absolute Liability, Strict Liability, and Vicarious Liability.

II. Postgraduate Students (10 respondents): Incorporated to analyze academic advanced thinking regarding liability principles.

III. Working Professionals (10 respondents): Selected to share their insights into the pragmatic effects and conceptions of these doctrines in practice.

The image shows a screenshot of a Google Forms survey. The title is "A COMPARATIVE ANALYSIS: ABSOLUTE LIABILITY, STRICT LIABILITY AND VICARIOUS LIABILITY". Below the title, there is a text box for "Comparative analysis of various liabilities." followed by an "Email" field with a "Valid email" error message and a "This form is collecting emails" note with a "Change settings" link. The first question, "Q1. Have you heard of the liabilities in law of torts?", has two radio button options: "Yes" and "No". The second question, "Q2. What is the key principle underlying strict liability?", has two radio button options: "a) No liability without fault" and "b) Liability arises regardless of fault". The form is set against a light purple background.

## SAMPLING METHOD

### SAMPLING TECHNIQUE: PURPOSIVE SAMPLING

The respondents were selected deliberately in consideration of their educational or professional background so that they could give relevant insights regarding the subject.

## RATIONALE

Targeted Expertise: Law students and professionals were selected to ensure that respondents had some familiarity or interaction with the concepts being researched.

Diverse Perspectives: Both students and working professionals were included in the study, which helped to capture a wide range of viewpoints from theoretical understanding to practical application.

## **DETAILS OF THE TOOLS**

### **I. QUESTIONNAIRE**

A structured questionnaire was developed as the primary tool for data collection. It contained both closed-ended and open-ended questions to collect both quantitative and qualitative data.

### **PURPOSE OF THE QUESTIONNAIRE**

To measure participants' awareness and understanding of liability doctrines.

To seek their views on the applicability and usefulness of these doctrines in modern legal scenarios.

To see if there is a gap between the theoretical understanding and practical application.

### **SAMPLE QUESTIONS**

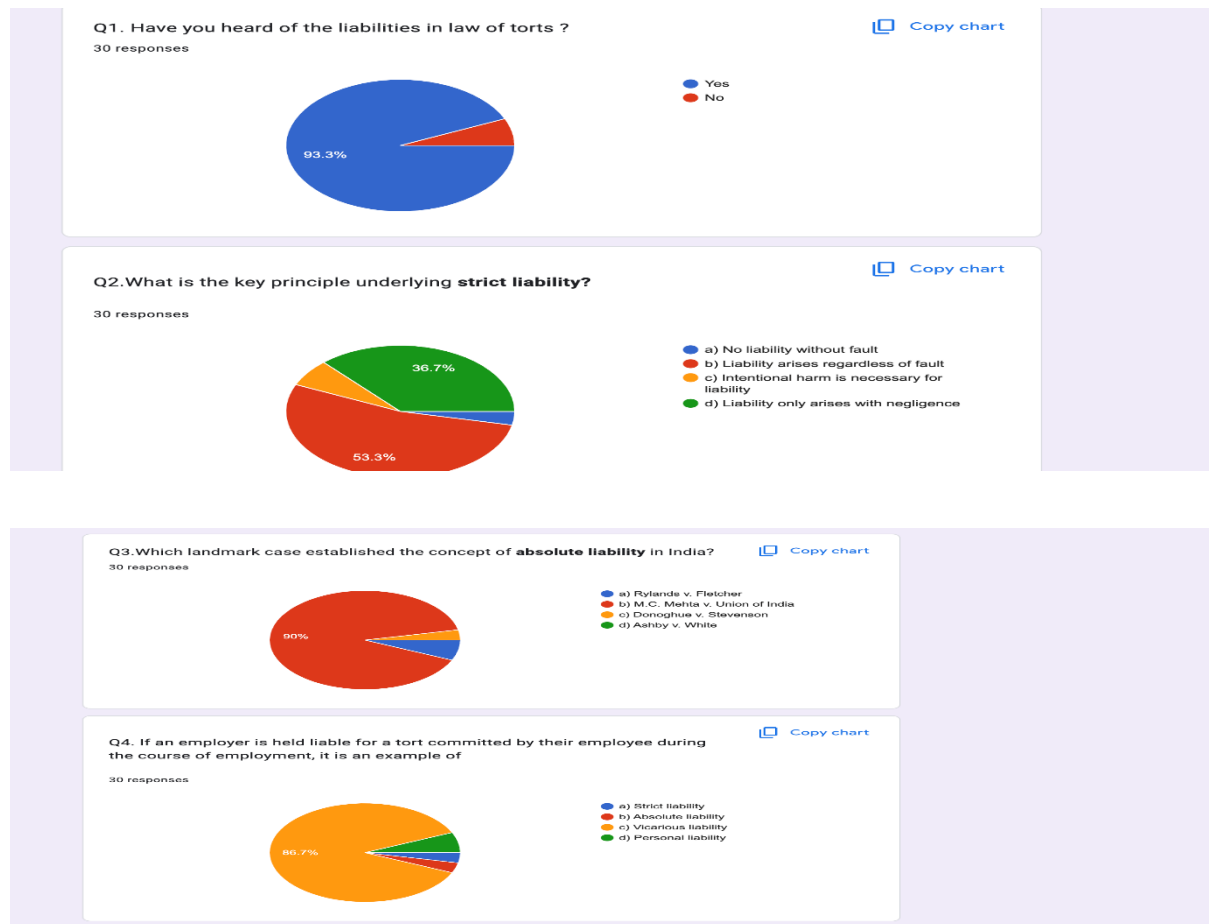
Do you know what Absolute Liability, Strict Liability, and Vicarious Liability are? (Yes/No)

Which of these doctrines do you think is the most relevant in addressing modern legal issues?  
(Multiple Choice)

Do you believe Absolute Liability promotes justice in environmental hazard cases? (Open-Ended)

Rate the effectiveness of Vicarious Liability in ensuring employer accountability in workplace disputes. (Scale of 1-5)

Give an example where you think these liability doctrines were applied effectively or ineffectively.



## 2. ONLINE INTERVIEWS WITH ADVOCATES

### PURPOSES OF INTERVIEWS

To attain expert views on judicial interpretations and applications of liability doctrines in India.

To understand the changing trends and challenges faced by courts while dealing with these doctrines.

To complement academic and survey data with real-world legal expertise.

### INTERVIEW QUESTIONS

How has the concept of Absolute Liability evolved in India after the Bhopal Gas Tragedy?

Can you provide examples of cases where Strict Liability was applied effectively in environmental or industrial contexts?

What are your views on the expanding scope of Vicarious Liability in the gig economy?

How do you think Indian courts balance public welfare and individual rights under these doctrines?

Questionnaire is obviously the most commonly used tool, but there are a few others and below they will be described together with their usage:

## THE QUESTIONNAIRE AND THE OTHER METHODS USED

Interview was adopted as the major instrumentation in this study and it involved the use of a structured questionnaire. Closed-ended and open-ended questions were used in the survey to collect various opinion about Absolute Liability, Strict Liability, and Vicarious Liability.

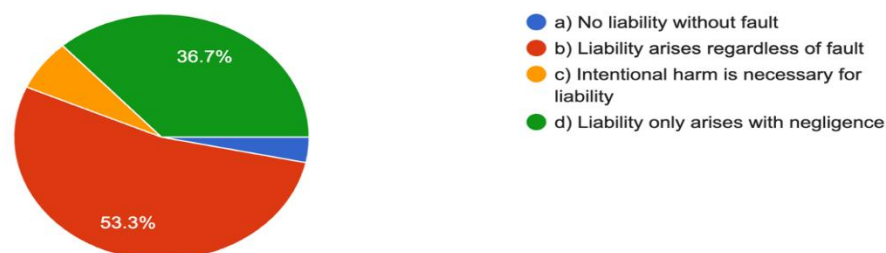
### PURPOSE OF THE QUESTIONNAIRE

Determine participant's knowledge and appreciation of liability doctrines.

Research views towards the validity and applicability of these doctrines.

Gather qualitative data and information on how these doctrines are received in day to day application.

Q2.What is the key principle underlying strict liability?  
30 responses



## SAMPLE QUESTIONS

Do you know ideas about Absolute Liability, Strict Liability, and Vicarious Liability? (Yes/No)

In your opinion, which of the liability doctrines best suits environmental disasters? (Multiple Choice)

Can you rate the effectiveness of Vicarious Liability in the accountability of employers? (Scale of 1-5)

Provide an event where you found these liability doctrines to have been used reasonably well. (Open-Ended)

Q3. Which landmark case established the concept of absolute liability in India?  
30 responses



## LITERATURE REVIEW

Purpose: Conduct literature review in form of universal law books, journals as well as case laws in the offer of historical and theoretical background.

## SURVEY

Purpose: Gather response numbers from 30 respondents of the three categories of programs offered namely: under graduate, post graduate and professional programs in order to generate number based analysis of the perception of the participants.

## RELIABILITY

The questionnaire was pilot tested on a small sample in order to minimize ambiguity or inconsistency in the answers.

Procedures for data collection were kept as similar as possible in order to avoid differences.

## VALIDITY

The content validity was achieved by seeking the advice from the legal scholars to ensure that questions appropriately measure the range of the liability doctrines.

The understanding of the findings through different methods (interviews, literature and survey) helped control construct validities.

## MANAGEMENT OF TOOLS AND TECHNIQUES

### DATA COLLECTION

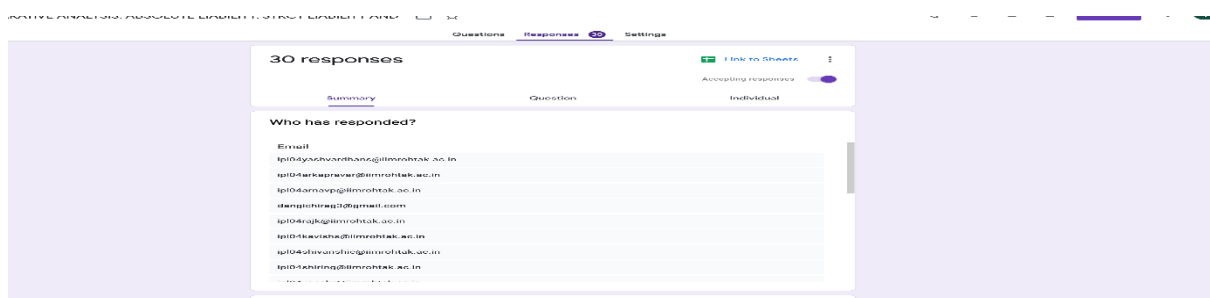
#### QUESTIONNAIRE

They were self-completed online through Google Forms so as to easily reach a wide audience of respondents.

Those were flexibly distributed to the participants through social media platforms and email.

#### PRIMARY DATA

I. Survey responses from 30 participants categorized into three groups: undergraduate students (10), postgraduate students (10), and working professionals (10).



II. Three Supreme Court advocates who have been part of landmark judgments(names not mentioned because of privacy issues).

#### SECONDARY DATA

Case laws such as M.C. Mehta v. Union of India and Rylands v. Fletcher.

Journals such as Yale Law Journal and Journal of Legal Studies.

## **DATA HANDLING AND STATISTICAL TOOLS USED FOR DATA ANALYSIS**

### **DATA HANDLING**

Survey responses were kept anonymous and grouped under different demographic heads.

Interview transcripts were coded using the NVivo for thematic analysis.

### **STATISTICAL TOOLS**

Descriptive Statistics: Percentage and mean score was used in summarizing quantitative responses through the survey questionnaire.

Thematic Analysis: Analysis of qualitative information from open ended questions and interview to identify some recurring patterns or insights.

## **DATA INTERPRETATION AND FINDINGS**

### **SURVEY FINDINGS**

90% students postgraduate; 70% working professionals said they were familiar with liability doctrines.

50% undergraduate students exhibited awareness.

### **PERCEIVED RELEVANCE**

Absolute Liability was considered most applicable to environmental cases by 80% of the respondents.

Strict Liability was viewed as being either too harsh or too lenient in terms of balancing public interest and individual rights.

## **APPLICATIONS IN THE GIG ECONOMY**

60% of the professionals believed that Vicarious Liability should be extended to cover gig workers.



## **INTERVIEW FINDINGS**

Proponents argued that Absolute Liability was necessary to avoid industrial negligence.

Strict Liability was considered essential but was limited by statutory vagaries.

Vicarious Liability was recognized as more and more applicable in gig economy cases.

## **RECOMMENDATIONS**

### **POLICY REFORMS**

-Define Absolute and Strict Liability more precisely in industrial and environmental laws.

-Apply Vicarious Liability more extensively to atypical employment situations.

### **LEGAL EDUCATION**

- Integrate contemporary case studies into law programs to better teach the principles of these doctrines.

### **PUBLIC AWARENESS CAMPAIGNS**

-Raise awareness among the public of their rights and obligations under these liability doctrines.

## CONCLUSION

Given the dilemmas faced by the contemporary society, the necessity for the legal framework to continuously evolve is thus pivotal; the multi-dimensioned engagement to such varied forms of legality include ever-increasing gig economy and rapid industrialization and the rise of nascent legal dilemmas to learn to go about them herself. This could include advancing adaptive and creative jurisprudential perspectives. As such, safety at places of industry is already a major cause of concern even as automation in technological advancements and workplace automation redefine the traditional workforce, just as the gig economy, a flexible but precarious mode of employment, has raised immediate issues around employer liability, as well as worker rights and social security.

The legal system has a challenging and multifaceted but essential task in relating public welfare to individual justice; the individual is to be woven into the great fabric of things that secure the freedom of speech before the law; thus, the two go hand in hand. Matters through which legal doctrines such as absolute liability, strict liability and vicarious liability in their toughest part lose their power to make law applicable to legislation must exist in new wisdom between the pronouncements of judges and changes in statutes.

This necessity for legal rules to escape these traditional frameworks as their all-embracer envelops within them so many features of socio-economic reality has never mounted more like this. Those who would be able to propose measures to meet this end are pointed out in this research document and directed to lawmakers and legal practitioners, and scholars thereby emphasizing putting such quasi-active regulatory measures and oversight into judicial forms.

This change in legal positive law is on the face of it ,the sort of exercise that is more than interested scholasticism, but a social imperative-for an elusively dynamic co-determination of norms, economics, and ethics through legal culture.

## EXECUTIVE SUMMARY

This study discussed Absolute Liability, Strict Liability, and Vicarious Liability concepts with the help of a survey, expert interviews, and a legal literature review. Results indicated that Absolute

Liability is of extreme relevance to environmental cases, clarity is required for Strict Liability, and Vicarious Liability is taking up importance in the modern workplace. Recommendations made were legislative reforms, better legal education, and awareness among the people so that issues arising can be tackled effectively.

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