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### Admiralty Law and Disputes

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#### Abstract

*Admiralty law in India is governed by the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, which establishes a modern and unified legal framework for resolving maritime disputes. The Act repealed outdated colonial admiralty laws and vested exclusive jurisdiction in designated High Courts to adjudicate claims arising from maritime commerce and navigation. It covers a broad range of maritime claims, including cargo damage, vessel collisions, salvage, towage, port dues, crew wages, and maritime liens. One of the most significant features of the legislation is the power to arrest and detain vessels, which functions as an effective enforcement mechanism to secure maritime claims and ensure compliance with judicial orders. The Act also incorporates the principle of strict liability of vessels and recognizes the limitation of liability for shipowners, thereby balancing commercial interests with legal accountability. Applicable to disputes occurring within India's territorial waters, the Admiralty Act, 2017 strengthens maritime governance by providing clarity, procedural efficiency, and alignment with international maritime standards. Overall, the legislation plays a crucial role in enhancing India's maritime legal regime and ensuring effective settlement of admiralty disputes in an era of expanding global trade.*

**Keywords:** Jurisdiction; Crew; Ship; Vessel, Shipowners, Maritime Claims, Arrest; Detention

## **Introduction**

The development of modern admiralty jurisdiction can be traced from Western countries particularly England, as being an island, has all along been engaged in commercial business through the sea and in that process the admiralty law developed. The importance of a codification of the law on admiralty jurisdiction can be realised by the fact that India being one of the major seafaring nations, having a coastline of approximately 7,517 kilometres and located between the Arabian Sea and the Bay of Bengal. The geographical location of India has helped in establishing a commercial business via sea route with the rest of the world. Sea transportation is one of the important pillars for the success of globalisation as more than 90 percent of the world trade is done via sea route. Due to the significant efforts of the Government of India there has been a continuous increase in the trade volume via sea with other nations. Considering the importance of maritime industry in overall economy of India, a proper legal framework which governs and regulates the disputes related to maritime claims is required. In line of the same, the Admiralty (Jurisdiction and Settlement of Maritime Claims Act, 2017 (herein after referred to as the Act) came into force on the 1st April, 2018. The Act consolidates the existing laws relating to the admiralty jurisdiction, legal proceedings in connection with the vessels, arrest, detention and sale of the vessel and other matters that are connected or incidental to the admiralty jurisdiction. the Act, specifies the list of the High Courts having admiralty jurisdiction. The Act conferred admiralty jurisdiction to eight High Courts of India, including the High Court of Calcutta, Bombay, Madras, Karnataka, Gujarat, Orissa, Kerala and Hyderabad. The jurisdiction of the High Courts in respect of all maritime claims be exercisable over the waters up to and including the territorial waters of their respective jurisdictions. In an era of globalisation, the trade among nations via sea is increasing day by day. Vessels play a crucial role in transportation of the goods from one nation to another. As the vessel travels from port to port in different parts of the world, there are also chances that the vessel may involve in certain liabilities like collisions, loss of life or damage to the goods, etc., in their voyage in a foreign jurisdiction. Now, the question is that how a maritime claim can be secured for the liabilities incurred by the vessel in a foreign jurisdiction considering the fact that the owner of the vessel has neither the property nor any residence within a foreign jurisdiction. The usual practice followed by the courts having admiralty jurisdiction to secure the maritime claim is to arrest the vessel. The main purpose for the arrest of the vessel is to obtain the security for the satisfaction of the judgment.

## **Literature review**

A literature review of admiralty law reveals it as a specialized, historically rich body of law governing maritime disputes, evolving from ancient customs into complex national statutes and international conventions that facilitate global trade and address modern challenges like marine pollution and cybersecurity.

## Key Areas and Themes in Admiralty Law Literature

The literature generally focuses on several core themes:

**Historical Evolution:** Admiralty law originated in ancient codes like the Rhodian Sea Laws and the **Rolls of Oléron** to provide uniform rules for seaborne trade. Modern systems, particularly in common law jurisdictions like India, the UK, and the US, trace their roots to the English Admiralty courts, which were later integrated into national legal frameworks.

**Scope and Jurisdiction:** Admiralty law generally covers "wet" issues such as collisions, salvage operations, ship arrest, and maritime liens, while the broader term "maritime law" often includes "dry" topics like marine insurance and carriage of goods contracts. National courts, often at the high court or federal level, exercise exclusive jurisdiction over these matters to ensure uniformity.

### **National Statutory Frameworks and Challenges:**

**India:** Indian admiralty law was historically tied to British statutes until the pivotal Supreme Court case of *M.V. Elisabeth*, which highlighted the need for a modern, unified law. This led to the enactment of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, which expanded jurisdiction to all coastal high courts and aligned Indian law with international norms. However, challenges remain, including procedural delays, a lack of specialized judges, and jurisdictional ambiguities, particularly concerning the Exclusive Economic Zone (EEZ) and the high seas.

**United Kingdom:** The UK's system is efficient, largely governed by the Senior Courts Act 1981, which offers clear procedures for in rem and in personam actions and aligns with international conventions like the Brussels Arrest Convention.

**United States:** Admiralty jurisdiction is anchored in the U.S. Constitution (Article III, Section 2) and federal law, aiming for national uniformity. Statutes like the Federal Maritime Lien Act define claims that allow for a lien on a vessel, a crucial enforcement mechanism.

**International Alignment:** The inherently international nature of shipping necessitates alignment with global standards and treaties, such as the United Nations Convention on the Law of the Sea (UNCLOS). Literature consistently points out that domestic laws must respect international law and the principle of comity of nations.

**Current Issues:** Contemporary literature addresses modern issues like environmental damage caused by vessels (e.g., oil spills), cybersecurity in maritime transportation, and the rights and working conditions of seafarers under conventions like the Maritime Labour Convention.

### **Key Texts in the Literature**

Academic commentary and journal articles frequently reference authoritative texts and cases, including:

Admiralty Jurisdiction and Practice by Nigel Meeson and John Kimbell.

Admiralty and Maritime Law by Thomas J. Schoenbaum or Robert Force.

The Development of Admiralty Jurisdiction and Practice since 1800 by F.L. Wiswall.

The landmark Indian case *M.V. Elisabeth v. Harwan Investment & Trading Pvt. Ltd*, Goa, which shaped modern Indian admiralty jurisprudence.

The body of literature indicates that while significant progress has been made in codifying admiralty law in many nations, continuous refinement of procedures and alignment with international standards are crucial for effective maritime governance and supporting the vast majority of global trade that occurs by sea.

### **The admiralty law**

Maritime activities commenced in India as early as early as 3000 BC. Indian literature has ample references to maritime trade, shipping<sup>7</sup> and commerce in it. Therefore, it becomes apparent that some form of rule or code of conduct did exist in ancient India for governing maritime trade and commerce. Maritime trade and other aspects were generally regulated by local customs. Evidence of the same can be found in Artha shastra where adherence to these customs has been advised. However, the exact nature of these customs is difficult to ascertain. One of the earliest and most significant sources of information in this period is the Manu Smriti which lays down certain rules to govern commercial maritime disputes. References therein have been made to seaborne traffic as well as inland trading and commerce. Certain aspects<sup>8</sup> such as rates and interests were left to be determined by experienced specialists. The code also laid down the foundations of 'marine<sup>9</sup> insurances'. Rights and obligations of cargo owners were also discussed.

Liability was affixed for damage caused by one's own fault to the goods of the passengers. However, one was free from liability if damage was caused by conditions which were beyond his control. Thus, force majeure conditions were specified so as to mitigate unwarranted disputes while. Apart from Manu smriti, mentions of maritime activities are also

### **found in Buddhist Jatakas.**

During the rule of Chandragupta Maurya, due to the rapid expansion of maritime trade, it became imperative to create a Board of Admiralty. It was one of the six boards that made up the war offices of the emperor. Kautilya in his Artha Shastra has detailed the duties of the 13 Superintendent. In chapter XXVIII of the Artha shastra, it is stated that the

Superintendent of ships examined accounts on navigation on oceans.<sup>1</sup> Mouths of rivers, natural or artificial lakes, as well as nearby rivers. His duties consisted of almost all the maritime activities like examining,

The accounts of navigation related to oceans and rivers or other artificial or natural water bodies, port levies, regulating the harbour's, safety measures of boats and ships in docks and in open seas. The Superintendent of 15 Ships also controlled sea going ships up to the area to which his jurisdiction extended. This included the harbour as well as a certain maritime zone outside inland waters as can be inferred from the reference to fisheries, particularly pearl fisheries found at a certain distance from land. There were also specific regulations for compensation, fees for 16 fishing license, freight payment, toll and cargo lien. Consideration was 17 shown for 'weather-beaten' ships as the Superintendent of Ships was to show 'fatherly kindnesses towards them. Moreover, ships arriving with goods spoilt by water were exempted from payment of toll or had it reduced to half. Brahmins, ascetics, children, the aged, the afflicted, 18 royal messengers, and pregnant women were to be given free passes to cross rivers. Arrest of a person was made in certain circumstances such as abduction of the wife or daughter of another person, stealthy possession. of valuable weapons, being on secret missions, false suffering from a disease, carrying weapons or explosives etc. Piracy was condemned and 20 pirate vessels "bound for the country of an enemy as well as those which have violated customs in force in port towns" were instructed to be destroyed.<sup>2</sup>

Scholars view admiralty law as a unique and evolving body of law that balances ancient traditions with modern needs, emphasizing international uniformity and specialized jurisdiction.

Academic discussions on admiralty law highlight its distinctive role as a legal framework that perpetually balances historical heritage with modern requirements. Legal scholars recognize that admiralty law is based on ancient maritime concepts, including the Rhodian Sea Laws, and has concurrently developed through contemporary national laws and international treaties. A persistent issue in academic discourse is the ability of admiralty law to evolve in response to technological innovations and emerging maritime practices, a discussion historically exemplified by inquiries into the relevance of admiralty jurisdiction to aviation and, more recently, to digitally operated and autonomous vessels.

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[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj42a2\\_0tGRAXUhZ\\_UHHYZvMGoQFnoECDsQAQ&url=https%3A%2F%2Fwww.cmr.edu.in%2Fschool-of-legal-studies%2Fjournal%2Fwp-content%2Fuploads%2F2022%2F02%2F05-Tracing-Admiralty-Law-in-India.pdf&usg=AOvVaw1CMigbOhWHuDKV0w7yZObW&opi=89978449](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj42a2_0tGRAXUhZ_UHHYZvMGoQFnoECDsQAQ&url=https%3A%2F%2Fwww.cmr.edu.in%2Fschool-of-legal-studies%2Fjournal%2Fwp-content%2Fuploads%2F2022%2F02%2F05-Tracing-Admiralty-Law-in-India.pdf&usg=AOvVaw1CMigbOhWHuDKV0w7yZObW&opi=89978449)

<sup>2</sup> <https://www.cmr.edu.in/school-of-legal-studies/journal/wp-content/uploads/2022/02/05-Tracing-Admiralty-Law-in-India.pdf>

A substantial corpus of work supports a purpose-driven or purposive methodology for interpreting admiralty law. Academics contend that judicial reasoning ought to be directed by the fundamental aims of maritime law, which encompass the advancement of maritime commerce, the stimulation of investment in trips, the facilitation of mutual help at sea via salvage, and the prudent utilization of vessels. This method is frequently juxtaposed with strict compliance to historical formalism, which might compromise the practical and commercial realities of contemporary marine operations.

A key subject in academic discourse is the conflict between international uniformity and national legal specificity. Although there is widespread agreement that the harmonization of maritime law is crucial for promoting global trade and preventing jurisdictional disputes, experts acknowledge that local legal systems invariably influence the enforcement and acknowledgment of maritime claims. National courts are essential in implementing international norms by offering effective remedies within their territorial jurisdiction.

The jurisdictional and procedural aspects of admiralty law, especially the action in rem and the doctrine of maritime liens, have sparked ongoing scholarly discourse. Competing perspectives elucidate the nature of in rem proceedings: the old personification theory, which characterizes the vessel as the culprit, and the prevailing procedural theory, which interprets vessel arrest as a means to compel the shipowner's appearance and safeguard claims. Academics underscore the significance of the hierarchical prioritizing of maritime claims, which grants preferential status to claims like seafarers' salaries and salvage, hence facilitating an efficient debt recovery mechanism focused on the vessel.

The safeguarding function of admiralty courts for sailors is a significant focus of academic inquiry. Courts are sometimes characterized as protectors of mariners, who have historically been viewed as defenceless and economically disadvantaged. Scholarly examinations underscore the judiciary's function in protecting seafarers' rights, especially in instances of abandonment, unpaid remuneration, and repatriation.

Scholars frequently emphasize the conceptual distinction between admiralty law and the Law of the Sea. Admiralty law regulates private marine relations and commercial conflicts, while the Law of the Sea is a segment of public international law that oversees the rights and responsibilities of governments regarding navigation, maritime zones, and resource management. Preserving this distinction is seen crucial for doctrinal precision and efficient legal implementation.

These academic viewpoints highlight the dynamic and adaptable nature of admiralty law, emphasizing the ongoing necessity for judicial and legislative involvement to maintain its responsiveness to changing global, technical, and environmental concerns.

## **Admiralty Law Treaties and International Maritime Conventions**

Admiralty law treaties are international accords aimed at standardizing legal regulations pertaining to global shipping and marine operations. The instruments, chiefly created by the United Nations via specialized agencies like the International Maritime Organization (IMO) and the United Nations Conference on Trade and Development (UNCTAD), seek to enhance uniformity, safety, environmental protection, and legal certainty in global maritime trade. They encompass various facets of marine law, including vessel safety, pollution mitigation, responsibility and indemnification, maritime transport of goods, ship detention, and maritime liens.

One of the most important treaties is the United Nations Convention on the Law of the Sea (UNCLOS), 1982, which establishes the legal framework for maritime zones, including territorial waters and Exclusive Economic Zones (EEZs), as well as the rights and responsibilities of coastal and flag states. Maritime safety is governed by conventions such as the International Convention for the Safety of Life at Sea (SOLAS), 1974, which delineates minimum standards for ship construction, equipment, and operation, and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), which sets forth uniform criteria for seafarer competence.

The prevention of maritime accidents and unlawful activities is governed by instruments including the International Regulations for Preventing Collisions at Sea (COLREGs), 1972, the Search and Rescue Convention (SAR), 1979, and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA). The legal and commercial dimensions are regulated by conventions such as the Arrest Convention, 1999, which standardizes ship arrest procedures in maritime claims; the Maritime Liens and Mortgages Convention (MLM), 1993; and cargo liability frameworks like the Hamburg Rules, 1978, which function in conjunction with the Hague and Hague-Visby Rules.

These conventions operate by establishing globally consistent norms while permitting execution via national legislation. States that ratify these treaties integrate their ideas into national legislation, as seen by India's Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017. Despite their international nature, maritime conflicts are primarily resolved by national courts that utilize domestic laws influenced by international treaty commitments. These treaties collectively guarantee consistent and foreseeable marine administration outside national boundaries.<sup>3</sup>

### **Suitable development practices and legal policy**

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<sup>3</sup> A compendium of Essays on, international, maritime and outer space law. (book), by Dr. Neha Singh.

The long-term health of maritime environments depends on the implementation of sustainable development methods. The following legal policies are essential in advancing these practices,

- 1- **Marine spatial planning-** MSP, is a procedure that directs human activity in maritime environments, including where and when it takes place. In order to achieve sustainable development, it helps strike a balance between, ecological, economic, and social goals.
- 2- **Ecosystem based management-** (EBM) is a holistic, integrated approach to managing natural resources that considers the entire ecosystem, including complex interactions between humans, other species, and their environment, to ensure long-term health, resilience, and sustainable use. Instead of managing single issues (like fisheries or forestry) in isolation, EBM balances multiple, often conflicting, societal and environmental goals by looking at the bigger picture, promoting collaboration, and adapting management as new science emerges.
- 3- **Major International Conventions and Relevant Policies:** A significant portion of international maritime law derives from a network of agreements and regulations established to ensure equitable, secure, and environmentally protective worldwide marine trade. The International Maritime Organization (IMO) and other global entities established these regulations, which are crucial for harmonizing national admiralty laws and informing local legislation such as India's Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

The United Nations Convention on the Law of the Sea (UNCLOS), established in 1982, is an important treaty. It establishes regulations for maritime zones, navigation entitlements, and the jurisdictional authority of coastal governments. The International Convention for the Safety of Life at Sea (SOLAS), 1974, stipulates the minimum safety standards for the construction, outfitting, and operation of vessels. The 1978 International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) also contributes to this matter. It establishes the regulations for the qualifications and employment conditions of maritime personnel.

- 4- **United Nations Convention on the Law of the Sea (UNCLOS):** Known as the "constitution for the oceans," UNCLOS provides the overarching legal framework for all ocean activities, including the general obligation of States to protect and preserve the marine environment and conserve living marine resources.
- 5- **International Convention for the Prevention of Pollution from Ships (MARPOL):** Governed by the IMO, MARPOL contains technical annexes with

regulations to prevent and minimize pollution from ships, including oil, noxious liquid substances, sewage, garbage, and air emissions.

- 6- **Convention on Biological Diversity (CBD):** This agreement covers all ecosystems and species and promotes the conservation and sustainable use of marine and coastal biodiversity, including the establishment of marine protected areas (MPAs).
- 7- **UN Fish Stocks Agreement:** Promotes a precautionary approach and the maintenance of marine living resources at sustainable levels for straddling and highly migratory fish stocks, often implemented through Regional Fisheries Management Organizations (RFMOs).
- 8- **London Convention and Protocol:** Focuses on the prevention of marine pollution by dumping of wastes and other matter.
- 9- **BBNJ Agreement (Biodiversity Beyond National Jurisdiction):** A recent agreement under UNCLOS that aims to enhance cooperation and promote EBM in the high seas, an area where such management has historically been more challenging.<sup>4</sup>

## Conclusion

Admiralty law provides a distinct and specialized legal framework for addressing disputes arising from maritime activities, uniquely balancing the need for victim compensation with the commercial viability of the shipping industry. As a sui generis branch of law, it integrates principles of contract, tort, and property law with maritime-specific doctrines such as salvage, maritime liens, and in rem actions against vessels. The modernization of admiralty regimes, exemplified by India's Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, reflects a deliberate effort to align domestic maritime law with contemporary international standards, expand judicial jurisdiction, and streamline the resolution of maritime claims.

Despite these advancements, admiralty law continues to face challenges in achieving uniform application, developing consistent judicial precedents, and responding effectively to emerging concerns such as technological innovation in shipping, environmental pollution, and the protection of seafarers' rights. A defining feature of admiralty jurisprudence remains the availability of in rem actions, including the arrest and detention

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<sup>4</sup>[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj1kumx7-CRAxXMSmwGHaiVFt8QFnoECEQQAQ&url=https%3A%2F%2Fwww.shipfinex.com%2Fblog%2Fmaritime-law-definition-history-examples-facts&usg=AOvVaw3bfYd0qqQMYdodDCQDr\\_nv&opi=89978449](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj1kumx7-CRAxXMSmwGHaiVFt8QFnoECEQQAQ&url=https%3A%2F%2Fwww.shipfinex.com%2Fblog%2Fmaritime-law-definition-history-examples-facts&usg=AOvVaw3bfYd0qqQMYdodDCQDr_nv&opi=89978449)

of vessels, which ensures effective enforcement of claims even where shipowners are unknown or beyond the court's personal jurisdiction.

In practice, the conclusion of admiralty proceedings often results in remedies such as the judicial sale of arrested vessels, the application of limitation of liability to cap shipowner exposure, and the recognition of maritime liens for claims including crew wages and collision damage. Ultimately, admiralty law stands as a robust yet adaptable legal system that ensures fairness, predictability, and justice in the resolution of complex maritime disputes within an increasingly globalized maritime domain.