



CENTRE
FOR
MARITIME LAW
NATIONAL LAW UNIVERSITY ODISHA

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The News of the Sea

Centre for Maritime Law

The Centre for Maritime Law was established in 2015 with an aim to build a centre of excellence and research in the field of maritime law in India. The Centre identifies first and foremost, that the statutes which govern maritime law were adapted from foreign states and these statutes don't address the concerns pertaining to the field appropriately, as the Indian trade practices are relatively different from those foreign states. Also, under the Indian maritime law regime, there has been a lack of timely amendments and proper implementation and hence most of the laws are out dated and are not equipped to deal with modern complications.

Keeping in mind the complications which perforate the Indian maritime law regime, the Centre has been analyzing the foreign case laws, statutes and their relevancy to the Indian jurisdiction. The Centre is currently working on Indian statutes, case laws, international treaties and conventions pertaining to maritime law and seeks to crystallize the current maritime jurisprudence in India.

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Marine Industry: Cyber-Risk & Security

Kirti Ranjan

Cyber risk management with respect to a company can help understand how much insurance cover is required, given at the dependency on the cyber world, in the present day and age. A threat to ship can be caused in two ways: either someone is deliberately trying to harm the cyber system of the company or accidentally the threat gets downloaded in the form of malware by the insider who lacks training. Cyber-attacks can be categorized in two ways: Untargeted and Targeted attacks. Untargeted attacks involve malware, phishing etc. while targeted attacks include password guessing method and denial of service.

Cyber awareness and Network systems are the two heads where cyber safety can be maintained or compromised. While we are creating new ways of protecting the system from online risks, we need to consider other possible ways of how the crew members working onboard can invite threats. Ship's crew are trained to protect the ship from physical threats but not from cyber threats. Not all ships are updated to the latest technologies. On older ships, the network system may not be as strong, as this type of risk was not considered during the ship's construction. Ships are increasingly using systems that rely on digitization, digitalization, integration, and automation, which call for cyber risk management on board.

As technology continues to develop, information technology (IT) and operational technology (OT) onboard ships are being networked together – and more frequently connected to the internet. This brings a greater risk of unauthorized access or malicious attacks to ships' systems and networks.

Underreporting of cyber-crime is also the reason why the insurance market of Cyber risk suffers from a handicap. Many companies do not disclose it because of the fear of negative publicity of their business or it might give an edge to the other competitors. A small incident report can help others in the industry get more educated and aware to protect themselves from bigger high financial losses. It might not eradicate the crimes entirely but will surely help in reducing its effect.

A good team of efficient professionals is needed to manage the cyber field in a company, who would carry out regular audits to update the system and risk assessment on a continuous basis to manage the security. This will help (i) evaluate your own IT system; (ii) the risk that is associated with the third party; (iii) assessment to know what damage might occur due to the risk and (iv) analyzing on how this risk can be managed in order to mitigate it.

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Mark Sutcliffe of CSO Alliance has created a tool, that helps in effective prevention and responding to the incidents of attackers trying to manipulate the victims by enticing them with offers of jobs or wealth, or even threats and access to illicit content.



Sulphur Cap Regulation 2020: A Critique

Bodhisattwa Majumder



The Sulphur emissions were sought to be controlled by the MARPOL Convention. In a revolutionary move to restrict and avoid climate change, the maritime industry faced a major change in the latest annexure to the MARPOL Convention (MARPOL VI). The MARPOL regulations apply to all vessel and it suggests the SOLAS Contracting Governments take steps to ensure compliance by oil fuel suppliers ensuring the minimum levels required by the SOLAS Convention. The article analyses the present sulphur content in the vessels, alternative compliant fuels available and provide critical analysis to the previous emission regulations in the Maritime Industry. However, there are impediments to implementation of a fuel cap which are discussed in the article. Further, the alternatives to the impositions of the fuel cap. The article concludes by saying that this transition is visibly unparalleled and difficult for both the Shipowners and the refiners concerning the required supply and demand of the Sulphur compliant fuel.

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MARPOL Convention

The International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78, MARPOL is short for maritime pollution and 73/78 short for the years 1973 and 1978) is one of the most important international marine environmental conventions. It was developed by the International Maritime Organization with an in an objective to minimize pollution of the oceans and seas, including dumping, oil and air pollution.

The original MARPOL was signed on 17 February 1973, but did not come into force at the signing date. The current convention is a combination of 1973 Convention and the 1978 Protocol, which entered into force on 2 October 1983. As of January 2018, 156 states are parties to the convention, being flag states of 99.42% of the world's shipping tonnage.

Enforceability of UNCLOS in International Maritime Law

Nimisha Shrivastava & Toshika Soni



The United Nations Convention for the Law of the Sea. (UNCLOS) is also sometimes referred to as the Law of the Sea Convention or the Law of the Sea treaty. UNCLOS, as a law of the sea came into operation and became effective from 16th November 1982.

Before the nautical law of UNCLOS came into force, there existed a school of thought known as freedom-of-the-seas. This doctrine had first come into operation during the 17th century. As per this law, there were no limits or boundaries set to the aspect of marine business and commercial activities.

United Nations Convention on laws of Sea 1982 is an international instrument which not only seeks answers to the ethical question of

‘Common Heritage of mankind’ but also addresses practical questions related to marine security and legal rights and duties of different coastal states in their marine territory. With the manifold increase in maritime activities around the world across these zones, several law enforcement powers are necessary to enable countries to tackle maritime security issues. In light of the same, regulation of activities at sea and ocean management becomes important.

Before maritime law became subject to treaty law, it was mainly regulated by customary practices and usages. Codification attempts in this arena have been made by The Hague Conference 1930 and the Geneva Conventions of 1958. The UNCLOS has mostly been a step towards the codification of

various usages but has also been a work of great innovation and novel ideas in the field of international maritime law.

One of the new creations of this Convention is the regime of ‘Common Heritage of Mankind’. As per the Convention, the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction [“the Area”] and the resources of this region are the Common Heritage of Mankind. The Area and its resources are beyond sovereign exercise and shall not be appropriated by any State unless by due procedure of the designated authority, that is, the International Seabed Authority.

However, problem arises wherein states reject or fail to ratify this regime. This is so because the regime of Common Heritage of Mankind requires universality in acceptance. However, states as majorly involved in the maritime legal arena have failed to ratify this Convention based on their hostility towards this regime.

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Prof. Mukherjee is the former VP Research, Director of Doctoral Programmes and ITF Professor of Maritime Safety and Environmental Protection at WMU. He is an Honorary Research Fellow of Swansea University (SU); Professor of Law at Dalian Maritime University, China; Visiting Professor at the Graduate School of Human Resource Development of Chung-Ang University, South Korea; Visiting Professor at NUJS, Kolkata, India, and is Chancellor of CINEC Maritime Campus, Colombo, Sri Lanka.

He has served as Senior Adviser, Maritime Policy and International Affairs in the Department of Fisheries and Oceans, Canada, and later as Senior Deputy Director and Professor of Maritime Law at the International Maritime Law Institute in Malta. He has drafted shipping and marine environmental legislation for over twenty-eight jurisdictions around the world. He is the author of Maritime Legislation and lead author of the Fourth Edition of Farthing on International Shipping. He has numerous publications to his credit on virtually every subject in maritime law

In Conversation with Prof. (Dr.) Proshanto Mukherjee

Question 1: What was your inspiration and reason behind building a career in the field of Maritime Law?

I never knew I would be pursuing Maritime Law as a career. I originally came from an engineering background and never thought I would be inclined towards Maritime. I got introduced to the industry initially as a navigating cadet in a training ship in Mumbai from 1963 to 1965 and was eventually qualified as a navigator. I eventually shifted to Canada and worked as a seafarer for over 16 years. During this, a professor of mine advised me to take up law post seafaring. I was then admitted at the Dalhousie University as a “mature student”.

I then went on to work on various scientific research ships and even got an opportunity to work in research involving Arctic Navigation. I was then offered a position by the Canadian government as a Junior Legal Maritime Advisor which got me the opportunity to work as a legal advisor on maritime missions worldwide under the ambit of IMO. I entered into the field of academia after becoming a fulltime professor at World Maritime University and stayed there for over 12 years. I have now been associated with Dalian University, China for almost seven years and been conferred three civic awards by the Chinese government.

Q2. What challenges and opportunities do you think there exist in Indian Maritime Industry? How can more young minds be attracted to Indian Maritime Law?

Indian Maritime Law still has a long way to go. India needs to start with the development of local legal education in order to make young lawyers be more inclined towards the Indian arena of laws, like the Law on Maritime. The Indian legal education system has a lot of po-

tentials to grow and develop and this can only be realized when India tries to promote its own. In order to get recognition, one needs to internationalize. This practice seems to be lacking in the country. The Indian educational institutions should expand their horizons and get international collaborations to ensure that students get the same or similar quality of education at home that they would get abroad and thereby stay and utilize the Indian resources in order to promote and develop Indian laws.

Q3. You have been one of the minds that lead to the foundation of the Centre for Maritime Law, NLUO, what was your vision when you initiated the establishment of the Centre?

The idea was to see NLUO have a full-fledged LLM programme on Maritime Law. Maritime Law is not taught enough at LLB level in India and thus NLUO can act as a catalyst to help develop education in Maritime Law in the country.

Q4. What would you suggest in terms of the Centre’s future course of actions in order to achieve your vision?

The Centre still has a long way to go to achieve the vision that I had in mind. The Centre is definitely off to a good start with the organization of the Conference. I would suggest that more seminars and workshops as well as conferences like this. Further, the Centre should expand its horizons and collaborate with international institutions to attract young minds towards the Maritime industry.

CML BLOG

The Indian Maritime Industry is growing at a fast rate and it has been predicted to be one of the most important contributors to the Indian economy in the times to come.

The Blog intends to provide the latest developments in the Indian Maritime industry as well as the recent updates about the admiralty law in India. The blog exists as a specialist research and professional platform in order to support and promote research and teaching of the highest standard in international shipping and trade law. The blog intends to act as an outlet not only for the Centre but also for the legal community and viewers of the blog as a whole willing to express their views and interests on important or trending maritime legal issues.

Centre for Maritime Law

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Contribute to our Blog

If you would like to contribute to the blog, we'd be thrilled to receive your submission! Please email it to cml@nluo.ac.in, with the subject **Blog Submission: <contribution title> and <author(s) name>**. If you would like your blog piece to include a photo and a short biography, please include this information in your submission email.

Once you have submitted your draft post, the Editors will be in touch. We endeavour to respond quickly to Blog submissions and you can anticipate a response within a fortnight.

If the contribution is rejected, the same shall be communicated with a brief feedback.

If it is considered that your post has potential to be published, but is not currently of the required standard, then we will send back your work with editorial suggestions in tracked changes. However, the same does not amount to acceptance of the post.

Submission Guidelines:

The write-up shall be in English only and should not exceed more than **2000 words**.

Co-authorship to a **maximum of two** is permitted.

The write-up shall have **no plagiarism** and should be the original work of the contributors.

Formatting Criteria:

Main Body: Font: Times New Roman, Font Size – 12, Line Spacing – 1.5 and Alignment – Justified.

Footnotes: Font: Times New Roman, Font Size – 10, Line Spacing – 1.0 and Alignment – Justified.

The contributor shall follow a Uniform mode of Citation.

CML Members:

Amit Chawla, Anamika, Arth Singhal, Avni Sharma, Divyansh Nayar, Divyanshu Jain, Harsha Tiwari, Kartikey Bhalotia, Parul Pradhan, Prajna Dasmohapatra, Nimisha Srivastava, Rishabh Tiwari, Sandeep Golani, Shashank Chaturvedi, Toshika Soni