
THE CONCEPT OF ADMIRALTY JURISDICTION IN INDIA

Heta Thakar, NMIMS School of Law

ABSTRACT

Admiralty Law involves both domestic law on maritime events, and private international law prevailing the interactions between private entities operating ships. Admiralty law comprises the law that governs activities that happen at sea, such as maritime business, ships and other nautical aspects. There are many aspects of Admiralty law. The present paper aims to address the Admiralty jurisdiction as a concept. The focus is mainly on the Admiralty jurisdiction in India. The paper discusses the history and development of Admiralty jurisdiction. It analyses the new act of Admiralty that was introduced in 2017. The paper also addresses a few cases to understand the concept better.

INTRODUCTION¹

Admiralty was originally the name of the Royal Navy in the United Kingdom. Admiralty jurisdiction deals with cases of international law, of territorial and international waters related to shipping, ocean activities and or under maritime law. It is the jurisdiction which deliberates the power on Courts to take up action on offences that take place on high seas. This particular way of jurisdiction was familiarised by several statutes like the Colonial Courts of Admiralty Act 1890, Colonial Courts of Admiralty Act 1891, Admiralty Offences Act, 1849, with the Indian, and the Merchant Shipping Act, 1894. The cases of Admiralty are *In rem* actions.

The norm behind this jurisdiction is the concept that a ship which soars on the high seas is viewed as a floating island. Admiralty jurisdiction is usually exercised cases of ill-acts which are committed on high seas and on Indian vessels or offences on foreign ships within the limits of Indian territorial waters.²

The power to exercise admiralty jurisdiction was mainly with the High Courts of Mumbai, Chennai, Kolkata and the Presidency Magistrates, now it is with all High Courts. Until quite recent, the state of the admiralty jurisdiction and the understanding of the applicability of law provisions for the same were vague. The case of the M.V Elizabeth is one such case under admiralty law that is remarkable for the developments. The paper further talks about the history and the development of the Admiralty jurisdiction in India.

Almost throughout the globe, the jurisprudence of Admiralty laws is introduced by the British; they set up Courts with jurisdiction for admiralty in all of their colonies. The countries continued with the laws until they replaced it with their own version.

RESEARCH PROBLEM

The present paper intends to focus on the issues related to Admiralty jurisdiction. The development of Admiralty laws has been slow in India. The research problem lies in the gaps in the understanding and applicability of Admiralty law and its jurisdiction. The jurisdiction was not well explored until very recent times. India did not have a specific domestic law on admiralty matters and it adjudicated matters based on old British laws of admiralty. Although,

¹ Heta Thakar, NMIMS School of Law, 5th Year Law student.

² Meeson, Kimbell, Admiralty jurisdiction and practice, 2013.

a new legislation specifically for Admiralty concept was introduced in 2017, adopted in the year 2018, it too has grey areas. The research is based on understanding the development of admiralty jurisdiction and the gaps within.

RESEARCH OBJECTIVES

The research objectives of the paper are as follows; to understand the concept of Admiralty jurisdiction in depth; to examine the history and development of the concept of Admiralty jurisdiction and to critically review the case laws pertaining to Admiralty jurisdiction.

RESEARCH METHODOLOGY

The researcher for the purpose of this present study has relied on secondary sources of data including books, articles, reports, newspapers, case laws, legislations etc. The methodology adopted for this research Doctrinal type of research, relying on analysis of already existing legal data.

LITERATURE REVIEW

Admiralty Jurisdiction is more limited today than it was in olden times. However, initially, it included only cases of acts that occurred on seas. Earlier the judges had a strong influence over the Admiralty laws and its application. The author talks about how since the olden times, the concept and law of Admiralty and its jurisdiction have developed. The author's intent was to talk about Admiralty Courts as it is the centre point of change in admiralty jurisdiction. The book talks about the significant change in the jurisprudence of admiralty law because of the change in the structure and operation of admiralty Courts. (F. L Wiswall, 1970)

Admiralty Jurisdiction and Practice is the conclusive work on process in the Admiralty Court, giving deep analysis and elucidation of jurisdiction, process and practice, methods and precedents. It contracts with several matters, not covered somewhere else, as well as the influence of indebtedness, the interchange between the jurisdiction and practice, the sequences of rules on jurisdiction specified by international conventions, collision action rules and limitation periods.(Nigel Meeson, John Kimbell, 2013). Maritime laws and shipping laws are one of the oldest areas of law and stem from very ancient sea laws. India continued to follow English statutes for Admiralty even after Independence. The article talks about Admiralty laws from an international commercial viewpoint. It explains the history of Admiralty jurisdiction

and Courts of India. The article talks about the effect of the M.V Elisabeth ship case on the Admiralty laws of India. (S.D Nandan, 2007). The resources and literature available on Admiralty jurisdiction is vast, however, there is no specific literature available on chronological development of Admiralty law and jurisdiction in India. There is limited work available on the same. Hence, it makes a good researchable topic.

HISTORY OF ADMIRALTY JURISDICTION IN INDIA

The Recorder's Court at Bombay which was brought by a Charter of 1798 was the first Court with admiralty jurisdiction. Later, the Recorder's Court was replaced by the Supreme Court of Judicature at Bombay by the Charter of 1823. The Supreme Court of Judicature at Bombay enjoyed the equivalent jurisdiction for its admiralty issues such as enjoyed by the High Court of Admiralty, England.

In 1861, the British Parliament passed the Indian High Courts Act. The main reason was to eliminate Supreme Courts and Sadar Adalats in Presidencies and to set up High Courts in Madras, Bombay and Calcutta. Every High Court was supposed to have jurisdictions of all civil, criminal, intestate, testamentary, admiralty and vice-admiralty jurisdiction.

According to Letter Patent of 1862 and 1865, it was provided that all civil and maritime matters shall be exercised by the newly established High Courts as Court of Admiralty. All maritime matters were to be heard before the mentioned High Courts.

The Colonial Courts of Admiralty Act, 1890 was introduced in 1890, which stated that every Court having unlimited civil jurisdiction under British rule was to be an Admiralty Court. It even gave admiralty jurisdiction in limited ways to subordinate Courts having civil jurisdiction. In 1891, by way of Colonial Courts of Admiralty (India) Act, 1891, the High Courts of Bombay, Calcutta and Madras were announced as Colonial Courts of Admiralty. With respect to admiralty jurisdiction, the High Courts of Bombay, Madras and Calcutta was considered equivalent to High Courts of England.³

Admiralty jurisdiction in India was overseen by Admiralty Courts Act 1861, applicable by Colonial Courts of Admiralty Act 1890 and adopted by the Colonial Courts of Admiralty

³ Dr. Shrikant Pareshnath Hathi and Ms. Binita Hathi, History and Admiralty Jurisdiction of the High Courts, Ship Arrest In India And Admiralty Laws Of India, Chapter 1, 13th edition, 2020.

(India) Act, 1891. The legislation wing of India enacted the Colonial Court of Admiralty Act 1861 at the High Courts of Calcutta, Madras and Bombay.

The jurisdictions were reinforced in the Government of India Acts of 1915 and 1935. The Constitution of India⁴ provided for Article 372 which allows the continuance of existing laws, and so the admiralty jurisdiction of High Courts continued as per the existing laws.

Earlier only three High Courts had admiralty jurisdiction, however after the recent Act of 2017, the jurisdiction of the High Courts of Bombay, Calcutta, Madras, Orissa, Hyderabad, Telangana, Gujarat, Karnataka, and Kerala have Admiralty actions.

India continues to follow a few English legislations including admiralty, and England follows a revised legislation for their admiralty matters which are influenced by the International Arrest Convention of 1952. Many countries have developed their own maritime Courts. The Courts of admiralty assume jurisdiction by means of the vessel being present in its territorial jurisdiction irrespective of the fact whether that vessel is national or not, whether it is registered, or wherever the domicile or residence may be. The Courts, generally, arrest the vessel to retain their jurisdiction. Vessels that are owned by the State usually have immunity.

The procedure, history and development of the admiralty jurisdiction are both theoretically and practically intriguing. The admiralty jurisdiction does have roots from the civil law system but it is still not exclusively from that system. The concept of admiralty jurisdiction has a robust international perspective but still remains self-regulating in many countries. There are particular universal aspects that exist in all the states having admiralty law and such international aspects are provided genuine contemplation by the Courts having admiralty jurisdiction.⁵

After India became independent, the Indian Parliament did not make separate laws with regard to Admiralty matters and so the Indian High Courts continued to apply the Admiralty laws as decided by the English Courts under the same old existing admiralty laws.

Development of Admiralty Jurisdiction in India.

⁴ Constitution of India, 1950.

⁵ Supra note 1.

In respect to the limitation and extent of admiralty jurisdiction, after the promulgation of the Constitution, the High Courts enjoyed unrestricted jurisdiction and they came up with their ways, rules, procedure of working in cases of admiralty. The extent of such jurisdiction was in doubt. The interpretation done by the High Courts led to a restrictive application of admiralty jurisdiction. The actual development did not take place until the *M.V Elizabeth V. Harwan Investment & Trading Co.* After this case it led to a deliberation upon the issue of admiralty jurisdiction.⁶

Need for Admiralty law's codification and clear jurisdiction.

Despite India being a sovereign nation, until quite recent, the Indian courts in matters of admiralty continued to administer laws in accordance with the laws left behind by the British. The English legislations did not cover the vast field of shipping, maritime and admiralty, and thus, there was a need for an adequate wide legislation to be formed. After independence when more High Courts were formed, the status for those High Courts' admiralty jurisdiction was not clear. There was quite confusion with respect to the admiralty jurisdiction of Courts. Thus, there was a clear need.

India being a country which has majority of its boundaries as a sea coast, has various numbers of major as well as minor ports, it is bound to attract admiralty and maritime matters. The lack of proper adequate laws covering important issues of admiralty, shipping, etc. hindered our maritime business too. Therefore, it became imperative for us to have our own codified laws on this area with respect to laws in accordance with international conventions related to law of sea. The first need for the same was realised by the Apex Court after the case of *M.V Elisabeth*.⁷

HISTORY OF ADMIRALTY JURISDICTION IN ENGLAND

England is an island and hence has been engaged in maritime business since long and hence led to development of admiralty law. The medieval period in England, had Lord Admirals designated for various parts of the sea surrounding the country and they possessed powers related to issue of vessels and also supervised functioning as Magistrates of Sea.⁸

⁶ Law Commission Report, 151st on Admiralty Jurisdiction, Law Commission of India, 1994.

<https://lawcommissionofindia.nic.in/101-169/report151.pdf>

⁷ Id. at 4

⁸F. L Wiswall, *The Development of Admiralty Jurisdiction and Practice Since 1800*, Cambridge University Press, 1970 - History - 223 pages

They were maritime official possessing both power and authority. They adjudicated on cases based on customs and usage. Then among them, one of the Lord High Admirals became the judge of the English Court of Admiralty. However, there were a lot of disputes between High Courts of Admiralty and Common Law Courts of England.⁹

In 1389, they passed a legislation describing the scope and limitations of jurisdiction of the Admiralty High Courts. However, the High Courts of Admiralty continued to intervene with other jurisdictions. In 1648, another legislation was issued describing limitations of of Court of Admiralty and it was separated and so on High Court of Admiralty lost its status for almost two hundred years. In 1840, the Parliament of Britain passed the Admiralty Court Act, 1840, to revive extent and practice of authority of High Court of Admiralty. The distinct feature of this Act was the Court could take cognizance of non-sea matters, matters related to same arising within country too.

In 1861, the Parliament introduced Indian Admiralty Court Act, to widen the jurisdiction of High Court of Admiralty. It even widened the jurisdiction by way of allowing cases involving damages done by a ship. The aggrieved party was also given a choice for an action either *In rem* or *In personam*. The Judicature Act of 1873 joined the High Court of Admiralty with the High Court of Justice. Later, another act was introduced namely the Administration of Justice Act, 1920 which further extended the jurisdiction. Then, the 1925 Act of Supreme Court of Judicature (Consolidation) was introduced. This conferred Admiralty jurisdiction to all divisions of the High Court. This Act brought about significant difference to Admiralty jurisdiction and enlarged the scope.¹⁰

***In rem* and *In personam* Actions**

The difference between *In rem* and *In personam* is a feature of admiralty Courts & their jurisdiction. These features along with maritime liens are primarily the aspects through which admiralty jurisdiction is invoked. *In rem* is claim against res, that can be a property on the board or the ship itself.¹¹ The striking feature of an *In rem* claim has been the capacity of claimant to initiate proceedings directly against the ship, which is considered personification of the

⁹ Supra note 3.

¹⁰ Lionel H. Laing, Historic Origins of Admiralty Jurisdiction in England, Michigan Law Review, vol. 45, no. 2, 1946, pp. 163–182.

¹¹ M.F Lawrence, An appraisal of the features of admiralty jurisdiction under Maritime Law, International Journal of Trend in Scientific Research & Development Vol. 3, Issue 3, April 2019.

defendant. It can also be initiated by way of arrest of a ship, when it is within jurisdiction of the admiralty court. *In personam* claims are more of a civil law system's aspect. The civil law systems did not know of the *In rem* claims. It is difficult to get hold of a defendant and it provides no security for claims under *In personam* claims. The reason or *In rem* claims under common law system of admiralty jurisdiction are that they provide security for the claim. In an *In rem* action, after the arrest of the ship, notice is sent out, and the person concerned furnishes security on their own and hence submits to the jurisdiction of the Court.¹²

ARREST OF SHIP UNDER ADMIRALTY JURISDICTION

The main objective of arrest is to get safety for *In rem* action and in order to establish jurisdiction, it is essential to arrest the ship. In the course of voyage, the ships when they enter water of foreign nations, subject themselves to that nation's jurisdiction. These ships go from port to port having on board goods/passengers.

The arrest of ships may be done to invoke jurisdiction, to obtain security for the purpose of the claim, to execute a decree. The claimant has to pay damages and consequences if it is a wrongful arrest. The ships are liable to arrest for maritime claims' enforcement or to execute a decree in legal claim that may be born out of salvage, collisions, loss of existence of a person, personal damage, damage to possessions etc. The ships may be confiscated or detained if they violate the foreign nation's rules, customs, safety measures, health policies etc. It is not feasible to enforce legal claim if the ship sails, therefore, the claimant may detain a ship by way of order of attachment if it is anticipated that the ship is likely to sail away from jurisdiction. The attachment is the only method of protecting the interest of the claimant by securing security.

In the Supreme Court Case of *Videsh Sanchar Nigam Limited v. M.V Kapitan Kud* (1986)¹³, the Court said that in admiralty actions, *In rem* actions are a strong case that can be tried. However, the ship in question is foreign and if it sails from the Indian territorial waters' shores then it is not really possible to get grasp of the ship and it would not return to Indian Court jurisdiction. Thus, even if the claim is legitimate, it would be non-executable or create issues in the enforcement of Private International Law.

The Court can obtain jurisdiction if the warrant of arrest or if the writ is executed on the ship on its arrival within the territorial jurisdiction of that Court. A command for arrest of ship can

¹² Id. at 8.

¹³ *Videsh Sanchar Nigam Limited v. M.V Kapitan Kud*, Supreme Court of India, 1986.

be acquired from the High Court with admiralty jurisdiction and at the time of filing the suit, the ship should be in that State's jurisdiction of that High Court.¹⁴

The limitations to invoking Admiralty jurisdiction in India are; when the matter is to be heard by way of arbitration and there is a special clause for arbitration; when the ship is in possession of Government of a foreign state, if that is the case, permission of Central Government of India is needed to initiate proceedings against the ship and its owners; *In personam* actions are not permitted in case of collision accidents till a case is formerly brought by the claimant against the same defendant in another foreign court in respect to the same cause of action; and *In rem* actions against the Government for rights against the Government or detention, arrest or sale of cargo or ships or other possessions belonging to the Government unless a notice under Section 80(1) of the Code of Civil Procedure, 1908 is conformed with.¹⁵

THE M.V ELIZABETH CASE:

The development and evolution of admiralty jurisdiction can be linked to the Supreme Court's decision in case of *M.V Elizabeth v. Harwan Investment and Trading*¹⁶. The ship belonged to Greek persons and it was registered in abroad. It was carrying goods of the claimant, the claimant had ordered not to take the cargo out of India and deliver it abroad, and the defendant violated this order. The claimants had the arrest of the ship carried out on its return journey at the Vishakhapatnam port in the state of Andhra Pradesh by their High Court.

In this case, the jurisdiction of the Andhra Pradesh High Court was not the issue in question. The fundamental issues in question were that a) can admiralty jurisdiction be exercised if a ship was carrying goods out of the country and b) could Indian Courts practice admiralty jurisdictions over a foreign vessel in its waters. The law of Admiralty Courts Act, 1861 which was still applicable then, limited the admiralty jurisdiction to not include actions against ships carrying goods into another country.

¹⁴ Dr. Shrikant Pareshnath Hathi and Ms. Binita Hathi, *Arrest of Ship, Ship Arrest In India And Admiralty Laws Of India*, Chapter , 35th , 12th edition, 2019.

¹⁵ Dr. Shrikant Pareshnath Hathi and Ms. Binita Hathi, *Restrictions to invoke Admiralty Jurisdiction, Ship Arrest In India And Admiralty Laws Of India*, Chapter 75th , 12th edition, 2019.

¹⁶ *M.V Elizabeth v. Harwan Investment and Trading Pvt. Ltd.*, 1993 AIR 1014, 1992 SCR (1)1003

The Andhra Pradesh High Court looked into their jurisdiction and concluded that it is within the competence to adjudicate on this matter. It was realised that following the old British laws did not widen the scope of jurisdiction of the High Courts in India.

It was originally held that since the legal provisions of the Admiralty Court Act, 1861 only mentioned inward cargo, the case for outward cargo was not to be heard. However, after the appeal was made, the Court held that the High Court of Andhra Pradesh clearly possesses jurisdictions for claims of inward as well as outward cargo. It established that High Court has jurisdiction to arrest foreign ship. Hence, the High Court was correct in assuming jurisdiction by the arrest of the ship. It was due to this case, that the Courts felt that the admiralty laws in India were inadequate, unclear and ambiguous which made them realise the need for new relevant admiralty law.

The judgement of Elizabeth case has its own merits and demerits. However, it remains as the case that created the path for development of admiralty law and jurisdiction in India. The situation of the case undoubtedly suggests that the old English statutes do not cover the entire gamut of admiralty law.¹⁷

The existing English legislations are made up of rules developed in the Admiralty Courts of England and subsequently by common law Courts. It was realised that just because India is not a part of the major international treaties and conventions related to ships and maritime claims, it does not mean that these provisions are not applicable to Indian laws.

They constitute part of general maritime law obtaining the status of international law. The biggest contribution of this case would be that it opened the eyes of legislators to amend and improve the laws and draft them in accordance with international conventions relevant to time and substance. This case accelerated the need for a national law on admiralty.

Admiralty Jurisdiction post the landmark case of M.V Elizabeth:

Elizabeth resolved the issue of whether High Courts have jurisdiction over certain aspects. The case however highlighted more existing issues to be looked at. Some of the issues are:

Maritime claims and lien:

¹⁷ Shyam D. Nandan, *Admiralty Jurisdiction In India: Pre And Post Elizabeth*, Journal of the Indian Law Institute, vol. 49, no. 1, 2007, pp. 81–101.

The High Court established in the Elizabeth case, that High Courts could arrest foreign vessels and had jurisdiction. Hence, now it was time to establish and identify which claims could fall exclusively under admiralty jurisdiction. Such claims are called maritime claims. The Indian laws lacked in this. Maritime liens are particular privileged claims which get urgency above other claims. In a Court case of *Epoch Enterrepots v. MV Won Fu*¹⁸, the Supreme Court attempted to classify maritime liens such as salvage, damage done by ship, seaman's and master's wages, bottomry etc.

Sister-Ship Arrest:

One issue that was highlighted was that of Sister-Ship arrests. The principle behind this is that the claimant should have a remedy available against alternative res, where the defendant's interests lie.

In the case of *State Trading Corporation v. Government of the People's Republic of Bangladesh*¹⁹, the claimant argued that a sister-ship, M.V Pranburi should be arrested as another ship to M.V Yanmit. The defendant argued that the arrest of sister-ship was not possible as India was not party of the Brussels Convention, 1952 which legitimised sister-ship arrest and moreover, even case of MV Elizabeth was silent on sister ship arrest and neither did Merchant Shipping Act, 1958 talk about sister-ship arrest.

The Court held that M.V Pranburi could not be arrested as it was not a sister-ship. However, the issue in question of sister-ship arrest could have been settled if it had dwelled into the contentions of the defendant deeply.

Law Commission Report:

Way back in the year of 1987, a committee was formed to ascertain the vagueness regarding admiralty jurisdiction in India. The committee was Parveen Singh Committee. This committee stressed on the requirement to define the jurisdiction and also to widen it. The law ministry was not much content with the recommendations of the committee, hence, it asked the Law Commission to prepare a report on this matter. The Law Commission Report (151st) classified

¹⁸ *Epoch Enterrepots v. MV Won Fu*, Supreme Court of India, October, 2002, Appeal (civil) 7039 of 2002

¹⁹ *State Trading Corporation v. Government of the People's Republic of Bangladesh*, Delhi High Court, 63 (1996) DLT 971, 1997 (40) DRJ 441

maritime liens and maritime claims. The High Courts were even allowed discretion to choose between *In rem* and *In personam* actions.

Admiralty Bill, 2005²⁰:

After the eye-opening case of Elizabeth, it took legislators around thirteen years to draft a law for admiralty law. The Admiralty Bill, 2005 tried to solve the issues that got highlighted after the Elizabeth case. The Bill had been modelled after the draft law by Law Commission in 1994 and it also took into consideration several International developments and provisions for admiralty matters. The Bill repealed all ancient laws which meddled with the growth of admiralty law in our country.²¹

THE NEW ACT FOR ADMIRALTY LAWS: ADMIRALTY (JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS) ACT, 2017

Admiralty laws are now governed by the legislation of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, which repeals the English Admiralty Courts Act, 1861 applied by (English) Colonial Courts of Admiralty Act, 1890 and adopted by Colonial Courts of Admiralty (India) Act, 1891 (Act XVI of 1891).

The new Act is the first step towards reformation of admiralty laws in India. The Admiralty Act of 2017 is in accordance with the International Conventions for Arrests of Ships of 1952 and 1999 and the International Convention on Maritime Liens, 1993 and specifies adjudication for particular issues of maritime claims, security for claims, arrest of ships etc. It permits sister-arrest of ships. It also vests admiralty jurisdiction *In personam* with regard to few maritime claims. The new act defines for the first time, maritime liens. It is also the first step in the direction of unification and codification of admiralty laws and its jurisdiction and practice.

However, it is still silent on the aspect of retrospective application of Admiralty Act. No savings provision exists in the new legislation which would safeguard proceedings initiated prior to the new Admiralty.

²⁰ The Admiralty Bill, 2005.

²¹ Supra note. 14

The new Act altogether is quite relevant and apt; however, it still has many key legal lacunae that need to be addressed.²² The Admiralty Jurisdiction Act is applicable to all ships, boats, and other vessels in the territorial waters of India, except inland vessels, vessels under construction. The Admiralty Jurisdiction Act is a much-awaited legislation. It elucidates the admiralty jurisdiction of Indian courts and classifies in a single act much of what was previously only stated in court judgments.

It also applies to ships that have sunk or are abandoned or stranded and the remains of such containers. The Act would not be applicable to any foreign ship that is employed for any non-commercial use as may be informed by the Government. This means that the Act would apply to all types of commercial ships, including general cargo ships, container ships, bulk carriers, roll-on/roll-off vessels, chemical carriers, oil and liquefied gas carriers, product carriers, tug vessels, livestock vessels, and even commercial passenger ships.²³

CONCLUSIONS, FINDINGS AND SUGGESTIONS

The research findings are that firstly, the admiralty law and practice followed the old ways till quite recent times, which caused hindrance in the progress of the admiralty laws in India. India should have parted ways with the old English statutes, soon after the Independence, and that would have led to less ambiguity in the matter of admiralty and its jurisdiction. Secondly, The British themselves revised their own laws, which we kept following for so long. Moreover, the history and development of the admiralty laws was far better under the British rule, as we did not pay attention to that area of law after Independence.

Further, the development and reformation of admiralty jurisdiction in India started only after the landmark case of *MV Elizabeth v. Harwan Investment and Trading Co.* This case was a real eye opener for the judiciary and legislators. Hence, the hypothesis is proved to be true. The research findings is also that the new act, Admiralty (Jurisdiction and Settlement of Maritime

²² Legal Article: India-Admiralty (Jurisdiction & Settlement of Maritime Claims) Act, 2017, UKP&I, September, 2018.

²³ Krishna Harlani, The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, Legal Update, February 2018. <http://www.manupatrafast.in/NewsletterArchives/listing/Harilani/2018/Feb/>

Claims) Act, 2017 is progressive and has eliminated certain issues related to admiralty law and jurisdiction.

In conclusion, admiralty law is a wide area of laws and hence, courts should be given jurisdiction freely and judicial discretion to adjudicate upon matters of admiralty law. The *In rem*, *In personam* actions and maritime liens are chief areas of admiralty jurisdiction. Usually, in admiralty jurisdiction's enforcement, there are conflicting interests. The courts have to consider both the claimant as well as International commercial interests. The courts have to maintain balance, so as to not to adversely affect the rights of either party.

If the discretion to choose between the actions is used correctly, it would make that the growth of shipping and maritime business is not stunted. One of the important aspects of judicial independence is that of admiralty jurisdiction of High Courts to administer justice with respect to matters within its jurisdiction.

It is the view of the researcher, that the question of admiralty jurisdiction of the High Courts, should not be in question, as it should be settled that they possess the same, more so, they should be given wide scope for exercising their power, with limited reasonable restrictions.

In the light of the research a few recommendations for the admiralty jurisdiction in India are as follows:

- The vast array of topics of admiralty laws should particularly rest with the Courts possessing admiralty jurisdictions;
- The power of Indian Admiralty Courts should encompass all waters that are navigable;
- The admiralty jurisdiction in India should include all the ships that are out on the high seas (barring sovereign ships) and the detrimental acts committed on the high seas that involve an Indian element;
- The laws are dynamic and thus, admiralty legislation should be revised and updated to eliminate any lacunae that might exist or develop, however, at the same time stability in the legal framework should exist;
- The recommendations of the Praveen Singh Committee could be adopted as they seem apt, such as setting up of exclusive Courts having admiralty Courts. This would take off some burden of High Courts as well as give a new dimension and development to admiralty law and practice;

- India should become signatories to more International treaties and conventions dealing with maritime aspects.

BIBLIOGRAPHY

• BOOKS

- F. L Wiswall, *The Development of Admiralty Jurisdiction and Practice Since 1800*, Cambridge University Press, 1970.
- N Meeson, Kimbell, *Admiralty jurisdiction and practice*, 2013.

• ARTICLES

- Lionel H. Laing, *Historic Origins of Admiralty Jurisdiction in England*, Michigan Law Review, vol. 45, no. 2, 1946.
- Shyam D. Nandan, *Admiralty Jurisdiction In India: Pre And Post Elizabeth*, Journal of the Indian Law Institute, vol. 49, no. 1, 2007.
- M.F Lawrence, *An appraisal of the features of admiralty jurisdiction under Maritime Law*, International Journal of Trend in Scientific Research & Development Vol. 3, Issue 3, April 2019.
- Dr. Shrikant Pareshnath Hathi and Ms. Binita Hathi, *Ship Arrest in India and Admiralty Laws of India*, 12 and 13 edition, 2019- 2020

• STATUTES AND LEGISLATIONS

- The Constitution of India, 1950.
- Code of Civil Procedure, 1908.
- Colonial Courts of Admiralty Act, 1890
- Colonial Courts of Admiralty (Indian) Act, 1891
- Admiralty Offences Act, 1849.
- Merchant Shipping Act, 1894.
- Admiralty Courts Act 1861.
- Government of India Act 1915.

- Government of India Act 1935.
- Judicature Act of 1873.
- Administration of Justice Act, 1920.
- Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.
- Admiralty Bill, 2005.

- **CASE LAWS**

- MV Elizabeth v. Harwan Investment and Trading Co., February, 1992, 1993 AIR 1014, 1992 SCR (1)1003.
- Videsh Sanchar Nigam Limited v. M.V Kapitan Kud, Supreme Court of India, 1986.
- Epoch Enterrepots v. MV Won Fu, Supreme Court of India, October, 2002, Appeal (civil) 7039 of 2002.
- State Trading Corporation v. Government of the People's Republic of Bangladesh, Delhi High Court, 63 (1996) DLT 971, 1997 (40) DRJ 441.

- **CONVENTIONS AND TREATIES**

- International Arrest Convention, 1952.
- International Arrest Convention, 1999.
- Brussels Convention, 1952.
- International Convention on Maritime Liens, 1993.

- **ONLINE BLOGS/NEWSPAPER REPORTS**

- Legal Article: India-Admiralty (Jurisdiction & Settlement of Maritime Claims) Act, 2017, UKP&I, September, 2018.
- Krishna Harlani, The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, Legal Update, February 2018.

- **COMMISSION REPORTS/ COMMITTEE**

- 151st Law Commission Report on Admiralty Jurisdiction, Law Commission of India.
- Parveen Singh Committee, 1986