

Navigating the Legal Landscape of Maritime Industry: Its Contribution to Economic Development and Factors Leading to Maritime Disputes

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Abstract

The study aims to provide a descriptive and conceptual analysis regarding the role of the maritime industry in the economic development of nations and the causes of maritime disputes. The paper also offers suggestions to reduce such disputes. We have used past studies and online articles to delve into this qualitative study. To make this research more insightful, we have used keyword co-occurrence analysis with the help of Vosviewer software. The results of the study show that the maritime industry plays an important role in the economic development of a nation. If proper policy can be adopted to mitigate the challenges, the contribution of this sector can be manifold.

Keywords: Maritime industry, Economic development, Maritime dispute, Policy adoption

JEL Classifications: K33, N40, F14

1. Introduction

In the vast expanse of global trade, the maritime industry stands as a vital conduit, facilitating the movement of goods and fostering economic development across nations (Askari et al., 2021; Osadume & Blessing, 2020). This dynamic sector not only serves as the backbone of international commerce but also plays a pivotal role in shaping the economic landscape of individual countries. As ships traverse the oceans, laden with cargoes of diverse commodities, they contribute significantly to the growth and prosperity of nations by connecting markets and enabling the exchange of

resources. This intricate web of maritime activities, however, is not without challenges, and understanding the legal dimensions becomes imperative. This paper sets the stage to explore the multifaceted contributions of the maritime industry to economic development while laying the groundwork for an examination of the intricate legal frameworks that govern its operations.

The maritime industry operates under a framework that is governed by various international treaties, conventions and national laws. Maritime legislation covers

a range of issues, including vessel safety, jurisdiction and venue dichotomy, environmental protection, cargo transportation and labour regulations for those working and dealing at sea. Maritime disputes are caused by a wide range of interrelated and diverse circumstances (Kim, 2008). Dealing with the intricacies of this landscape can be quite challenging for all parties involved in the sector such, as vessel owners, operators, seafarers and port authorities. To successfully navigate through the complexities of legislation, it is essential to have an understanding of the key factors that shape this ever-changing legal domain.

In this context, this paper attempts to explore important factors and themes concerned with the legal framework of the maritime industry contributing to economic development, and at the same time, we analyse the reasons contributing to maritime disputes. The rest of the paper is organised as follows. The next section delves into the important literature; Section 3 deals with Methodology; Section 4 describes the results and Section 5 gives the Conclusion and Policy Implications.

2. Review of Literature

Askari et al. (2021) studied the impact of the Maritime sector on the economic development in the context of Bangladesh and found that effective use of marine resources and smart management could help Bangladesh become a developed nation even before the deadline. However, the study also discovered some challenges that are to be addressed. Similarly,

Upadhyay & Mishra (2020) studied the trend of the blue economy in the context of the world and India. The study found that though India has all the potential to benefit a lot from the blue economy, currently it is not utilising 100 percent of it. The study also stated that a few government schemes are working in this direction to maximise the contribution of the blue economy. The study suggested improving the awareness and education level to bring more policies for the blue economy. By analysing the relationship between marine security and blue economy, Voyer et al. (2018) found that the growing importance of maritime security will lead to more investment and expansion in related industries, including shipbuilding, technology providers for Maritime Domain Awareness, and maritime infrastructure like ports. For the Indian Ocean region, this will alone create new economic and job prospects.

Osadume & Blessing (2020) concluded that there is a strong bidirectional causal relationship between maritime trade and economic development, and it suggests that the government provide cheap funding and a favourable environment to promote the expansion of maritime trade. The foundation of the Southeast Asia region's economic growth is its reliance on sea transportation, which has facilitated international trade and societal development (Khalid & Joni, 2009). In the context of China, To & Lee (2018) stated that the expansion of China's tertiary sector—more specifically, the country's

coastal tourist and transportation sectors—has driven and will continue to drive the country's maritime economy. China's east and north-east coasts are seeing faster maritime economic growth than the country's southeast coast in terms of spatial development. There is a presentation of the consequences for China's marine economy's sustainability. Kwak et al. (2005) stated that the maritime sector has a number of positive effects, including increased employment, low supply shortfall costs, low forward linkage impact, high backward linkage effect, high production-inducing effect, and low widespread effect of price changes. Igberi & Ogunniyi (2013) concluded that the government should create policies that would encourage real foreign and private investment in the marine sector of the economy if it is to have a positive and meaningful impact on Nigeria's industrialization and economic growth. Fratila et al. (2021) observed that alongside the intensity of economic maritime activities, pollution is positively correlated with economic growth, and thus it is recommended that policymakers and other involved stakeholders act to diminish environmental impacts in this sector using green investment in port infrastructure and ecological ships, in accordance with the current European trends and concerns

Many literature have also studied the reasons and possible solutions of maritime disputes. Østhagen (2021) found that the investigation of maritime boundary-making is linked to current trends and developments that influence related

political and legal practices. The ongoing processes of institutionalising ocean space through international legal frameworks, the shifting appreciation of maritime space in terms of its utility and environmental value, and the growing relationship between maritime space and state politics are all particularly pertinent. It would make sense to anticipate that such unresolved boundary conflicts would become more challenging to resolve as marine space becomes more important to states. States' and state leaders' obsession with marine riches, the overall geopolitical importance of expanded maritime space, and technical advancements that allow for increased control over the maritime domain. In the context of Australia, Smith (2010) observed that since the Maritime Union of Australia has always supported global concerns, unions around the world have given the union a great deal of support, mostly because of its left-wing, internationalist principles. The neo-liberal strategy taken in Australia and the intricate connections between the stevedoring industry and other industry sectors were significant external variables that impacted the union campaign's internationalisation. Similarly, Kim (2008) observed that Northeast Asian maritime disputes are caused by a wide range of interrelated and diverse circumstances. The problem of maritime disputes is becoming a crucial element that could jeopardise Northeast Asian peace and stability in an unstable security environment. Given the national interests at risk, it is unlikely that the problem will be settled very soon, and the

Similarly, by performing the Keyword co-occurrence analysis for the second search result, we found that law is the most frequent word used. The other important word is China which shows that most of the works are focused on China. The Green cluster focus on the law and related aspects whereas the red cluster represent geographical regions. The blue cluster represent themes like party, act, rule etc. directing towards political aspects. But the blue cluster is very small. So we can conclude that depending on the region, different laws affect the maritime disputes and political interference has a role in solving them.

Factors contributing to the complexity of legislation in the maritime space (Pezoa, 2022).

There are some crucial factors that contribute to the complexity of such legislation in the maritime industry;

International Nature of Shipping: Ships operate in treacherous waters that may traverse from national to international waters. They will then be subject, to the laws of multiple countries. This can create conflicts and challenges for businesses to comply with regulations which can bring into play the jurisdictional challenges.

Advancing Technology: The continuous development and use of technologies like submarines and underwater drones pose legal challenges in the maritime industry. These advancements often do not fit neatly into existing law frameworks.

International Agreements and Treaties: One of the main challenges, in the field of maritime law arises from the complicated web of agreements and treaties. These significant agreements, such as the United Nations Convention on the Law of the Sea (UNCLOS) lay out guidelines for governing activities. Outline the rights and responsibilities of countries when it comes to utilizing our oceans. Comprehending these agreements necessitates an understanding of relations and a knack for finding ground amidst conflicting interests among nations.

Business Aspects I.e. Shipping and Trade: The essence of maritime legislation lies in its regulation of shipping and trade. Various laws govern aspects such as vessel registration, crew management, cargo handling as liability in case accidents or environmental incidents occur. As global trade continues to expand there is an increasing demand for regulations established by organizations like the International Maritime Organization (IMO). These regulations primarily focus on ensuring safety, security and environmental protection.

Environmental Sustainable Practices: During modern maritime legislation structures, there has been a growing emphasis on sustainability within legislation. The industry faces scrutiny regarding emissions control, ballast water management and proper disposal of materials. There is a rising recognition, for eco practices that advocate for developing

and implementing technologies aimed at reducing the impact caused by the sector.

Concerns: Maritime activities have an impact on the environment leading to an increasing focus, on preventing pollution and safeguarding marine ecosystems through complex regulations governing ship emissions, ballast water management and waste disposal.

Important set of pre litigation considerations in maritime litigation;

The primary step involves going through the facts and circumstances of the dispute and getting an initial understanding of the same. It is essential to identify the general contractual foundations of the dispute comprehending the facts, relevant laws and potential remedies. A suitable example can be that if the cargo gets lost, destroyed or damaged during shipping, then the liability and damages will be ascertained on the basis of the facts, and more importantly, the legal considerations in the contract- clauses related to indemnity, limitation of liability, force majeure and that if there is specific marine insurance with both the parties.

The process of discovery is when parties collect evidence to support their claims or defences. In disputes related to litigation in maritime space, this often includes production of a lot of documents, conducting depositions and interrogatories. Expert witnesses may also be used to provide knowledge on topics, like safety procedures, fire hazards or accident reconstruction. Gathering evidence

beforehand helps both the sides to understand the case and do a SWOT analysis basically strengths and weaknesses of their cases and ensures a transparent process. E.g. in an injury case involving an accident, evidence gathering might involve obtaining records of maintenance statements from witnesses and medical records. It's necessary to collect and preserve all documentation such as contracts, maritime records, correspondence and expert reports and their presence is crucial to support arguments. In the realm of legal disputes accurately assessing the value of claims is a vital part of pre litigation considerations. This involves determining the worth of the losses or damages resulting from an incident or disagreement. Ensuring accurate valuation guarantees that the affected party seeks compensation and that legal proceedings are based on an evaluation of the financial consequences. Furthermore, accurately assessing the value of a claim helps determine litigation costs and prospects for recovery.¹ Considering methods like mediation or arbitration can offer more cost effective solutions, than formal litigation. ADR presents itself as an alternative, to the process of litigation. By considering ADR methods, parties involved have the opportunity to potentially speed up dispute resolution, reduce costs of litigation and maintain positive business relationships. However, it is crucial to evaluate the nature of the disagreement and the willingness of all parties involved before deciding to pursue this option.

Once the decision to pursue a lawsuit has been made there are multiple crucial steps involved;

Determining Jurisdiction and Venue: Jurisdiction refers to the authority of a court to hear a case and give its ruling or decisions on such case while venue determines the court or location where the case should be heard. In litigation both jurisdiction and venue play an important role. The determination of jurisdiction often relies on factors, like the party's location, where the incident or dispute occurred and relevant international agreements or treaties if any.

For instance, if there is a dispute between two Indian parties regarding a collision between their vessels in Indian territorial waters, it is likely that Indian courts would have jurisdiction. However, determining which specific court within India should handle the case depends on factors such, as convenience, expertise and local regulations. Identifying the appropriate court or tribunal that has authority, over the dispute taking into account the parties involved the nature of the claim and the relevant laws is an important consideration.

Filing of Claims: Submitting the documents, such as a Statement of Claim or Petition which outline the legal basis for the claim present factual allegations and specify desired remedies. After making the decision to proceed with litigation, the plaintiff prepares a document called a plaint. This plaint outlines all the details of the dispute including facts, legal claims

and what they are seeking as a resolution. Once it is ready the plaint is officially filed in the court marking the start of the lawsuit. The defendant then receives a copy of this plaint and is given a period of time to provide their response pertaining to the same.

In cases involving litigation this initial phase holds significance as it establishes the foundation, for the entire legal process. It is crucial for plaintiffs to carefully draft their complaints in order to clearly express their claims. On the hand defendants usually respond by either addressing each point mentioned in the complaint or, by presenting motions that challenge its validity. Ensure that all documents or notices are properly served to notify the defendant(s) in accordance, with rules. It is crucial to inform them about the action being taken.

Certain pre-trial procedures along with Discovery: The process of discovery is when parties collect evidence to support their claims or defences. In disputes related to litigation in maritime space, this often includes production of a lot of documents, conducting depositions and interrogatories. Expert witnesses may also be used to provide knowledge on topics, like safety procedures, fire hazards or accident reconstruction. During this stage parties involved may also engage in settlement discussions to assess their positions and consider the option of resolving the dispute without resorting to a trial.

In litigation a trial involves the process of presenting evidence arguments, from lawyers and a decision made by either a judge or a jury. This trial process is governed by rules related to evidence and procedures which can vary depending on the jurisdiction.

Key Stages of a Maritime Trial²

1. Pleadings; The parties involved in the case file pleadings that include the complaint, answer, counterclaims and replies. These documents outline the claims and defences put forth by each party.
2. Discovery; During this stage the parties exchange information and documents through discovery processes like interrogatories, depositions and requests for production of documents.
3. Motions; Parties have the option to file motions that seek rulings on issues or aim to exclude pieces of evidence from being presented during the trial.
4. Pre-trial Conference; Prior to the trials commencement there is usually a conference where both sides discuss case matters with the court. The goal is to narrow down the scope of issues being addressed in court and establish a schedule, for the trial.
5. Trial; The actual trial begins with opening statements delivered by each party's representatives. Following this, there are presentations of evidence including witness testimonies, expert opinions and documentary proof.

Lawyers cross examine witnesses to challenge their credibility or clarify points.

6. Closing Arguments; Once all evidence has been presented lawyers present closing arguments summarizing their case while urging either the judge or jury to rule in their favour.

The judge makes a determination either by delivering a verdict or ruling, on the law, which ultimately decides the outcome of the case.

Enforcement of Judgements/ Decisions of the Court/Arbitral Tribunal: Enforcing judgments can be a tedious legal process that involves various methods and considerations. Common ways to enforce these judgments include executing the judgments themselves, attaching property, conducting proceedings and taking curative actions. The international enforcement of judgments is regulated by conventions such, as the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Several factors influence the enforceability of these judgments, including jurisdiction, the finality of the judgment, public policy considerations, reciprocity between countries and legal procedures. To enforce a judgment effectively it may be necessary to seize assets, bank accounts or income streams belonging to the party involved or the defaulter in order to satisfy the judgment. This could involve actions, like placing liens on properties or freezing the assets of the defaulter.

Appeals and Post Procedural Aspects: In marine litigation if either party is unsatisfied with the outcome of the trial or arbitration, they have the option to challenge the judgment through an appeal or post-trial procedures. These processes allow for a review of the trial proceedings and there are chances that it may lead to a reversal or modification of the original judgment or decision.

Appeals

An appeal is a request made to a court asking them to review and reconsider the decision made by a lower court. In litigation cases appeals are typically filed with appellate courts responsible for reviewing lower court decisions.

Reasons, for Appeal: There are various grounds on which a party can base their appeal in maritime litigation. These include;

1. Legal Errors; Claiming that the court misinterpreted or there was an incorrect or arbitrary application of the law. There can also be a situation that the decision was barred by principles of Natural Justice.
2. Factual Errors: Contesting the sufficiency or admissibility of evidence presented during the trial, i.e. basically errors on the facts of the case.
3. Procedural Errors: Questioning any mistakes made by the trial court in conducting and managing the trial proceedings.

Post-Trial Procedures

Once a trial concludes the parties involved in the dispute have options, to pursue post-trial procedures;

1. Filing a request for a new trial with sufficient evidence for re trial; This document is for requesting the court to order a new trial or consider errors or newly discovered evidence in the case.
2. Document to Amend or Clarify Judgment to be submitted to the Court: With this motion one can ask the court to provide clarification or make modifications to the judgment in order to address any ambiguities or inconsistencies that may exist within the judgement which the court may have failed to notice.

What are the International Considerations in Maritime Litigation?

Maritime legal disputes can be complex and challenging as they are governed by a range of conventions, treaties and national laws. When parties involved in disputes contract from different countries or jurisdictions or when the incident occurs in international waters, the international considerations of maritime litigation become particularly significant.

Important International Conventions

International conventions play a vital role, in maritime litigation by providing a framework to resolve disputes and establish uniform rules for maritime

activities. Some noteworthy conventions include;

*The United Nations Convention on the Law of the Sea (UNCLOS)*³: The UNCLOS is an extensive convention that sets out the charter for certain activities in large water bodies, more specifically oceans, seas including navigation, exploitation of marine resources and protection of the marine environment.

The International Convention for the Prevention of Pollution from Ships (MARPOL); The main objective of this convention is to address the issue of pollution caused by ships by implementing rules and regulations that control the release of oil, sewage, garbage and other harmful substances, into the marine ecosystem.

*The Convention on the International Regulations for Preventing Collisions at Sea (COLREGS)*⁴; This convention establishes guidelines and rules, including the “rules of the land“ for ships and other vessels to adhere to while at waters and in order to avoid any collisions, between two or more vessels.

Choice of Law and Jurisdiction

Selecting laws and jurisdictions is crucial in litigation as it determines which laws will be applicable to a dispute and which courts will have jurisdiction, over it. Determining the law and jurisdiction in cases involves considering several factors;⁵

1. Nationality of the parties: The citizenship of the parties can impact the choice of law and jurisdiction as

some countries may give treatment to their own citizens or businesses.

2. Location of the incident: Where the maritime incident or transaction took place also plays a role, in determining which law and jurisdiction apply.
3. Contract terms: If a dispute arises from a contract the specific terms, within that contract may indicate which law and jurisdiction govern the dispute.
4. Forum non conveniens: This legal principle empowers courts to decline jurisdiction over a case if they believe that another court would be more appropriate to handle it.

Emerging trends and recent crucial developments in Maritime Litigation

The maritime sector is an ever evolving and growing industry which is always adjusting to new technologies, expanding trade routes and developing legal frameworks. Maritime litigation, reflects this dynamic nature. The legal field is adapting to deal with various kinds of lawsuits regarding climate change in the maritime industry. There is a growing number of cases involving harm insurance claims arising from weather events, drastic changes in weather during shipping through waters and conflicts over who should take responsibility, for addressing climate change in the maritime sector. Recent important developments and emerging trends have had a crucial impact, on the field of legal disputes in maritime space.

1. Complexity of Disputes: The complexity of disputes in maritime space is, on the rise, driven by the advancement in operations, the expansion of activities at sea, technological advancements and the complex network of international conventions and national laws that govern these activities. Parties involved in these disputes face challenges as they navigate through complex and multiple frameworks and interact with diverse legal systems. A very important example would be of Autonomous ships, also referred to as self-driving vessels are boats that have the capability to function without any human intervention except for certain circumstances or technical issues. Although these advancements offer potential in terms of improving efficiency, safety and cost effectiveness operations, but as we say advancements come at a cost of something and hence they bring about new legal difficulties and intricacies, in maritime litigation.⁶
2. Technological Advancements, good or bad?: Technological advancements in any sector is always good to have. But sometimes there are situations where we might question the benefits of tech advancement in maritime space. Yes, with the emergence of autonomous ships and underwater drones such innovations bring about complexities that the field of maritime litigation must face. One such challenge involves determining liability in case of collisions involving ships which are unmanned or basically autonomous which we discussed in our above example.
3. Cybersecurity threats, cyber pirates: There is this increasing worry in the sector that revolves around cybersecurity threats like cyberattacks which are generally aimed at ships navigation systems, cargo management systems and communication networks. The world is advancing so are the pirates. To tackle the consequences of cyberattacks maritime litigation now focuses on attributing responsibility for damages resulting from cyberattacks and creating guidelines for responding to cyber incidents.
4. Environment protection and sustainability: There is also a growing significance of protecting the environment and promoting sustainability is becoming more prominent in cases. There is a growing emphasis, on preventing pollution caused by ships and safeguarding marine ecosystems. As a result, there has been an increase in disputes related to oil spills, management of polluted water and the effects of hazardous activities on biodiversity. An example can be that in case of an oil spill, the offender may be attributed with a liability to pay for the costs in cleaning of waters or curing of waters along with specific

- penalties according to environment laws and on top of that commercial penalties.
5. The significance of having insurance coverage is increasing. Companies, in the industry face risks such, as ship collisions, cargo damage, pollution incidents and cyberattacks. It is essential for businesses to have insurance coverage to minimize these risks and safeguard themselves from setbacks if a maritime incident occurs. Having an understanding of the terms and conditions stated in insurance policies is crucial as it can greatly influence how maritime disputes are resolved. Insurance clauses would sometimes limit insurance coverage for situations of oil spills or marine destruction.
 6. Growing Scope of Maritime Labour Law: The field of labour law is constantly evolving in order to address the rights and wellbeing of seafarers. This includes ensuring that they have working conditions, fair compensation and decent living arrangements. Recent advancements, such, as the implementation of the International Labour Organisation (ILO) Maritime Labour Convention (MLC)⁷ have strengthened the framework for safeguarding seafarer's rights and have resulted in an increase in disputes related to labour. The MLC, established in 2006 as part of developing maritime law incorporates all the latest standards, from existing international conventions concerning maritime labour.
 7. Emphasis on Effective Risk Management- Effective risk management practices are essential for maritime businesses to identify, prioritize, and mitigate potential legal risks. This involves implementing robust risk management systems, staying informed about evolving legal trends, and seeking legal advice from experienced maritime lawyers. It is always better to hire a lawyer specialising in maritime laws who can give an overview of the legal landscape and who can review contracts in a manner that all loopholes are closed and there are no open ends.
 8. Evolving Role of International Law- The evolving role of law is crucial for countries like India that have a wide presence in maritime affairs. Being a signatory to various conventions and treaties, India actively participates in shaping the legal framework for resolving maritime disputes. These conventions play a role in governing how conflicts are resolved particularly when it comes to vessels operating in various waters. Recent advancements in law including the revision of MARPOL and the development of regulations, for deep seabed mining are influencing the landscape surrounding maritime activities.
 9. Cross Border disputes and enforcement of decisions: Enforcing

judgments can be a tedious legal process that involves various methods and considerations especially when the issue is cross bordered. Enforcing judgments, across borders in lawsuits is gaining significance as parties aim to enforce their judgments in one country against assets or individuals situated in different countries. International agreements, like the New York Convention help with the enforcement of judgments. It can be a complicated process that may require further legal actions.

10. Are Human Mistakes the primary cause of litigation?⁸ After all Humans make mistakes: Maritime operations by their nature involve a human aspect. Seafarers play a role, in navigating waters and handling hazardous cargo ensuring the safe and efficient transportation of goods and passengers worldwide. However, the human element also plays a part in disputes and legal matters often influencing incidents and shaping the legal landscape of such disputes.

Human Errors and Negligence- Human errors and negligence are factors contributing to incidents like collisions, groundings or pollution spills.

Human Fatigue- The maritime industry operates non-stop with seafarers facing demanding work schedules, hours on duty and exposure to environmental conditions. Fatigue, stress and other human factors can affect judgment, decision making abilities and reaction times. These

factors increase the risk of accidents occurring while also contributing to disputes.

Communication and Coordination Challenges- Effective communication and coordination among crew members on board ship vessels as with shore based personnel are vital for safe maritime operations. Instances where communication breaks down or orders get misinterpreted along, with differences can lead to misunderstandings or mishaps that ultimately result in disputes.

Training and Safety Culture- Training and fostering a culture of safety are vital, in organizations to reduce error and avoid accidents. When training is insufficient safety procedures are neglected or safety protocols are disregarded it can lead to incidents and a higher chance of disputes, to human factors.

1. Conclusion and Policy Implications

The maritime sector plays a pivotal role in fostering economic growth by serving as a global conduit for trade, commerce, and connectivity. Its contributions extend beyond traditional shipping to encompass diverse industries such as logistics, tourism, and energy. The sector's efficiency and resilience directly impact a nation's economic performance, promoting job creation and technological advancements. As a key facilitator of international trade, the maritime domain enhances a country's competitiveness on the global stage. Governments and

stakeholders must prioritize investments and policies that promote sustainability, innovation, and collaboration within the maritime sector to harness its full potential and ensure sustained economic development.

The realm of law is maritime legislation is vast, dynamic and intricate covering a range of international agreements, national laws and international regulations, treaties, customs and conventions. Successfully navigating this framework requires a deep understanding of the crucial elements that influence maritime disputes as well, as an awareness of the emerging patterns that are shaping the field of maritime litigation.

As maritime operations become more advanced and expand into territories the complexities surrounding disputes will continue to evolve. Parties involved in disputes must be ready to adapt to these changing trends by seeking the guidance of maritime lawyers who possess specialized knowledge and skills needed to effectively navigate through the intricate world of maritime legislation and litigation. Keep in mind the technological advancements like AI which can change the course of the dispute like no other. By considering the factors that contribute to maritime disputes keeping up with emerging trends and engaging competent maritime lawyers parties can effectively manoeuvre through the intricacies of marine legislation and litigation. This ensures their rights and interests are

safeguarded within the changing landscape of the maritime industry.

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