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MARITIME LAW

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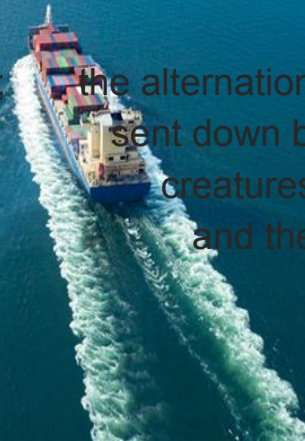
Surah Baqarah: 164

إِنَّ فِي خَلْقِ السَّمَوَاتِ وَالْأَرْضِ وَاخْتِلَافِ اللَّيْلِ وَالنَّهَارِ وَالْفُلْكِ الَّتِي تَجْرِي فِي الْبَحْرِ بِمَا يَنْفَعُ
النَّاسَ وَمَا أَنْزَلَ

أ

الْبُرِّ فِيهَا مِنْ كُلِّ دَابَّةٍ وَتَصْرِيفِ الرِّيْحِ وَالسَّحَابِ الْمُسَخَّرِ بَيْنَ السَّمَاءِ وَالْأَرْضِ لآيَاتٍ لِقَوْمٍ يَعْقِلُونَ

“Indeed, in the creation of the heavens and the earth; the alternation of the day and the night; the ships that sail the sea for the benefit of humanity; the rain sent down by Allah from the skies, reviving the earth after its death; the scattering of all kinds of creatures throughout; the shifting of the winds; and the clouds drifting between the heavens and the earth—‘in all of this’ are surely signs for people of understanding.”



Surah Maida: Verse No. 96

أَحِلَّ لَكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ مَتَاعًا لَكُمْ وَلِلسَّيَّارَةِ وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ
حُرُمًا ۗ وَاتَّقُوا اللَّهَ الَّذِي إِلَيْهِ تُحْشَرُونَ

It is lawful for you to hunt and eat seafood, as a provision for you and for travellers. But hunting on land is forbidden to you while on pilgrimage. Be mindful of Allah to Whom you all will be gathered.



Surah Ibrahim: Verse No. 32

اللَّهُ الَّذِي خَلَقَ السَّمَوَاتِ وَالْأَرْضَ وَأَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَخْرَجَ بِهِ
مِنَ الثَّمَرَاتِ رِزْقًا لَكُمْ وَسَخَّرَ لَكُمُ الْفُلْكَ لِتَجْرِيَ فِي الْبَحْرِ بِأَمْرِهِ
وَسَخَّرَ لَكُمُ الْأَنْهَارَ

It is Allah Who created the heavens and the earth and sends down rain from the sky, causing fruits to grow as a provision for you. He has subjected the ships for your service, sailing through the sea by His command, and has subjected the rivers for you.



MARITIME TERMINOLOGIES

Maritime | Marine | Shipping | Admiralty |
Private International Law | Public
International Law | Municipal Law



WHAT IS MARITIME LAW?

Definition:

- * Body of rules that “govern” everything that goes on territorial and open waters.
- * Govern? jurisdiction | procedural law | substantive law
- * Term interchangeable with Law of the Sea | Admiralty

Development:

900 BC: Greece

3000 BC: India started ship trade / commerce

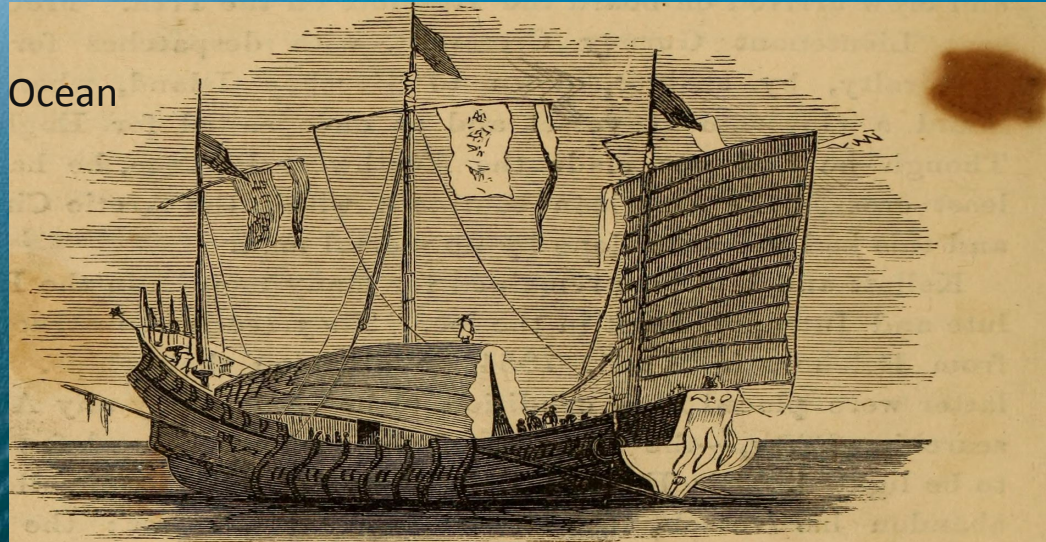
2000 BC: Arabs first used ships to go to Indian Ocean

1492: Columbus discovered America

1609: Mare Liberum (Freedom of Seas)
(Territorial Waters)

1603: East India first came to South Asia

1990: Dubai became smugglers stop / port



INTERNATIONAL MARITIME ORGANIZATION

- United Nations specialized agency: safety and security of shipping + prevention of marine and atmospheric pollution + sustainable shipping
- 175 Member States. 66 intergovernmental organizations with observer status
- 85 international non-governmental organizations with consultative status.
- Maritime law of IMO covers cybersecurity in shipping, regulation of autonomous shipping, fishing, making shipping safer and combating issues like piracy and human trafficking.
- Forefront of drafting conventions and treaties relating to maritime laws.



THE MINISTRY OF MARITIME AFFAIRS PAKISTAN

- Objective: national ports, provide competitive shipping, enhance seaborne trade, harness marine fishing resources and develop coastal infrastructure.
- Regulation of license ports & marine services and facilities.
- Managing vessel traffic in the port while ensuring safety and security.



SUBJECT AREAS OF MARITIME LAW

- Marine Pollution Liabilities
- Collision Liabilities
- Climate Change
- Admiralty Law
- Carriage of Goods by Sea
- Marine Insurance Law
- International Shipping
- Artificial Intelligence and the use
- Cybersecurity

of Autonomous Ships and Vessels



INTERNATIONAL RULES ON MARITIME

- 1966 - Helsinki Rules on the Use of Water of International Rivers
- 1972 - Convention on Prevention of Marine Pollution by Dumping Waste
- 1982 - The United Nations Convention on the Law of the Sea (UNCLOS)
- 1992 - UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes
- 1997 - International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol 1997
- 2009 - Port States Measures Agreement
- 1974 - International Convention for the Safety of Life at Sea 1974 (SOLAS)
- 2006 - Maritime Labour Convention
- 2010 - International Convention on Standards of Training, Certification and Watchkeeping for Seafarers



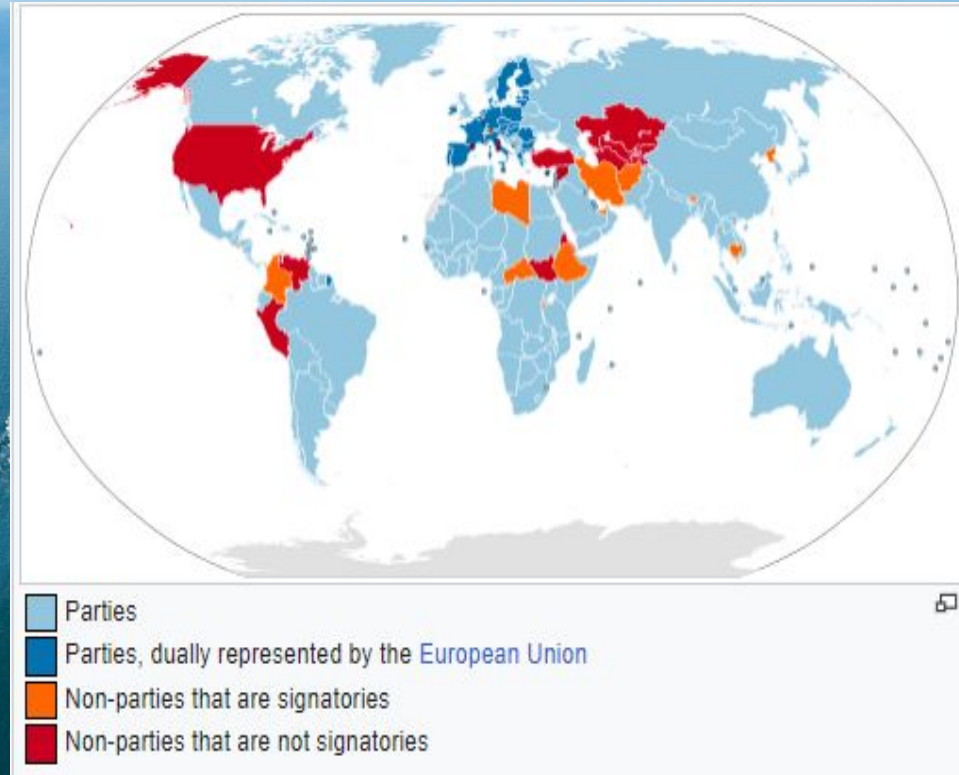
IMO vs UNCLOS

- UNCLOS general legal framework for all activities in the oceans and seas.
- Term IMO featured once in UNCLOS but term “competent international organization” has been used repeatedly. This expression when used in the singular in UNCLOS, applies exclusively to IMO.
- Many of UNCLOS provisions can be implemented only through specific operative regulations in other international agreements. These provisions clearly establish an obligation on Parties to UNCLOS to apply IMO rules and standards.
- IMO conventions contain provisions: text does not prejudice the codification and development of the law of the sea in UNCLOS and legal views of any State.
- New international regulations by the IMO do not alter or affect the fundamental framework of UNCLOS over rights, jurisdiction, duties and obligations of Parties to UNCLOS.



UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS):

- Signatories: 157 | Parties: 169
- Pakistan signed on 10 Dec 1982 and ratified on 26 Feb 1997
- One of the most significant State that has neither signed nor ratified UNCLOS is the United States of America.



UNCLOS

SCOPE:

The United Nations Convention on the Law of the Sea (UNCLOS) is established to define coastal and maritime boundaries, to regulate seabed exploration not within territorial claims, and to distribute revenue from regulated exploration.

IS IT LEGALLY BINDING?

The decisions are binding on its member states.

Countries first attempt to settle any disputes stemming through negotiations or other agreed-upon means. If efforts prove unsuccessful, a country may, subject to settlement by the UN International Tribunal for the Law of the Sea (located in Hamburg, Ger.), by arbitration, or by the ICJ.

from the 1982 convention and its provisions of their choice (e.g., arbitration). If such a dispute is referred to the UN International Tribunal for the Law of the Sea (located in Hamburg, Ger.),



UNCLOS

China rejected Tribunal's ruling under UNCLOS:

On July 12, 2016, the arbitral tribunal adjudicating the Philippines' case against China in the South China Sea ruled overwhelmingly in favor of the Philippines, determining that major elements of China's claim—including its nine-dash line, recent land reclamation activities, and other activities in Philippine waters—were unlawful. **However, China denied the ruling saying China's 'territorial sovereignty and marine rights' in the seas will not be affected.**



COASTAL BELTS OF SOUTH ASIA

Pakistan: 1,046 km of coastline along the Arabian Sea.

India: 7,517 km of coastline, including the Arabian Sea to the west, the Bay of Bengal to the east, and the Indian Ocean to the south.

Iran: 2,440 km of coastline along the Persian Gulf and the Gulf of Oman in the south.

Bangladesh: 720 km of coastline along the Bay of Bengal in the south.

Sri Lanka: 1,340 km of coastline
Indian Ocean.

surrounding the island nation in the



COASTAL AREAS OF SOUTH ASIA

Oman: 2092 km of coastline, including the Arabian Sea to the south and east, and the Gulf of Oman to the northeast.

Saudi Arabia: 2,640 km of coastline along the Arabian Gulf (Persian Gulf).

Kuwait: 499 km of coastline along the Arabian Gulf (Persian Gulf).

Bahrain: 161 km of coastline along the Arabian Gulf

Qatar: 563 km of coastline along the Arabian Gulf

UAE: 1,318 km of coastline along the Arabian Gulf and the Gulf of Oman.



NATIONAL MARITIME LAWS

- 1886 - Karachi Port Trust Act
- 1897 - Fisheries Act
- 1908 - Ports Act
- 1925 - Law of Carriage of Goods by Sea Act
- 1973 - Port Qasim Authority Act
- 1997 - Pakistan Maritime Security Agency Act
- 2001 - Pakistan Merchant Shipping Ordinance



ADMIRALTY JURISDICTION IN PAKISTAN:

- Admiralty Jurisdiction of High Courts Ordinance, 1980
 - Sindh High Court
 - Balochistan High Court
- The jurisdiction of our Admiralty Courts extends to all ships or aircrafts, local or foreign and wherever the residence or domicile of the owners may be.
- It also applies to all maritime claims



ADMIRALTY JURISDICTION IN PAKISTAN:

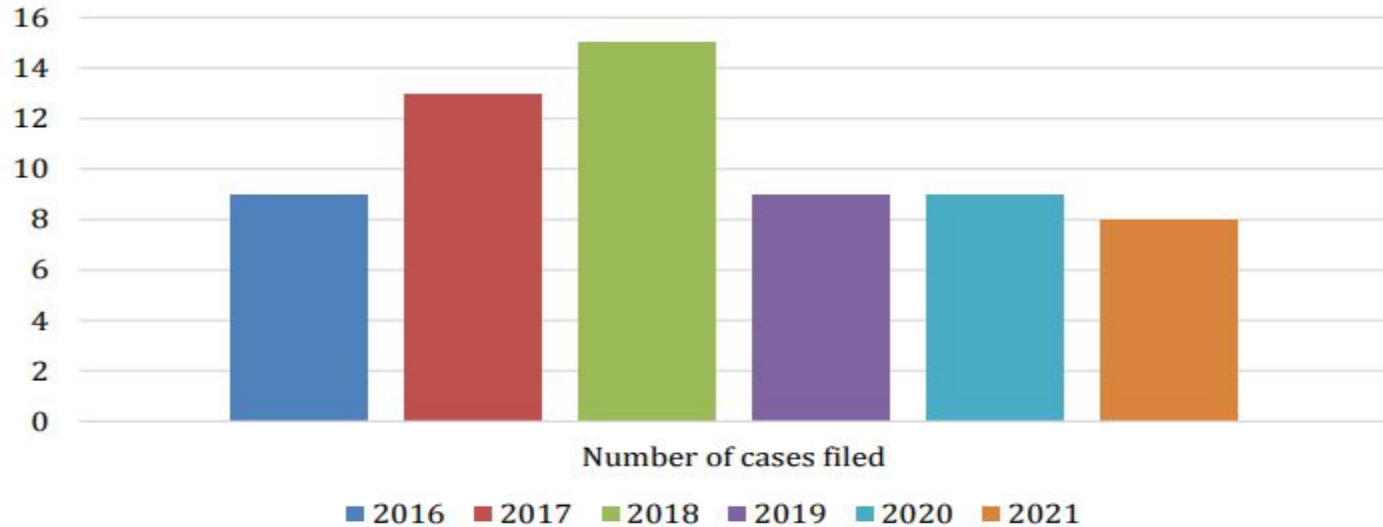
In the case of *Jehanzeb Aziz Dar v. Maersk Line* (2000 PLD 258 KHI), Mr. Justice S. A. Sarwana observed that:

“Rules of Civil Procedure Code, 1908 are applicable to proceedings initiated in Admiralty Jurisdiction of High Court as long as the Rules mentioned in C.P.C. are not in conflict with or contrary to Sindh Chief Court Rules (O.S).”



ADMIRALTY JURISDICTION IN PAKISTAN:

Figure 1: Number of cases filed in admiralty jurisdiction of High Court of Sindh from 2016 to 2021.
***Upto December, 2021**



MARITIME ZONES

Territorial Sea: Territorial Sea is defined under the UNCLOS as the 12-nautical mile zone from the baseline or low-water line along the coast. The coastal state's sovereignty extends to the territorial sea, including its seabed, subsoil and airspace, above it.

Contiguous Area: In addition to a country's sovereign territorial waters extend to 12 nm (about 22 km) beyond the shore, there is a further 12 nm from the territorial sea baseline limit beyond the 12-nm limit, called 'contiguous zone'. According to the UNCLOS, a state can continue to enforce its laws in the contiguous zones concerning four specific matters:

1. Customs;
2. Taxation;
3. Immigration and
4. Pollution.



INTERNATIONAL WATERS

- The concept of International waters is applicable to a merchant ship on an international voyage.
- Beyond 12 nautical miles (territorial sea), the coastal country only claims certain rights for very specific purposes (it is not PART of the coastal country's territory).
- as far as a ship is concerned, any part miles from a country is international applicable on the ship.



of the sea beyond 12 nautical waters the law of the flag state is

RIGHTS AND RESPONSIBILITIES OF STATES IN NAVIGATION

RIGHT TO INNOCENT PASSAGE:

ARTICLE 19 of the UNCLOS declares that passage is “innocent” so long as it is not prejudicial to the peace, good order, or security of the coastal State.

ARTICLE 45: The right of innocent passage applies to straits used for international navigation in accordance with the UNCLOS and cannot be suspended even when a situation of armed conflict exists.

ARTICLE 52-53: The right of innocent passage also applies to archipelagic waters, but it can be subject to temporary published suspensions for the protection of coastal State security.

ARTICLE 19-20: Submarines and underwater vehicles conducting innocent passage must navigate on the surface and show their flag.

An exception to the authority to deny innocent passage to aircraft exists within the limited context of the “right of assistance entry” is **Article 98** of UNCLOS “Duty to render assistance”



RIGHTS AND RESPONSIBILITIES OF STATES IN NAVIGATION

Article 24: DUTIES OF COASTAL STATE:

- prohibits coastal States from hampering the innocent passage of foreign ships through the territorial sea unless specifically authorized by other Articles of the UNCLOS.
- prohibits coastal states from discriminating among States or cargoes from different nations.

ARTICLE 25: RIGHTS OF COASTAL STATE:

A coastal State may take necessary steps in its territorial sea to prevent passage which is not innocent and may announce temporary suspensions of innocent passage through a required public notice if the suspension is essential for security reasons, which include weapons exercises




RIGHTS AND RESPONSIBILITIES OF STATES IN NAVIGATION

RIGHT TO TRANSIT:

ARTICLE 38: all ships and aircraft enjoy the right of transit passage, which shall not be impeded;

except that if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics

A large cargo ship with a blue hull and a red and white superstructure is sailing on the open ocean. The ship is viewed from an elevated perspective, moving away from the viewer towards the horizon. It leaves a prominent white wake behind it. The ocean is a deep blue, and the sky is a clear, light blue.

RIGHTS AND RESPONSIBILITIES OF STATES IN NAVIGATION

Article 39 Duties of ships and aircraft during transit passage:

- Proceed without delay through or over the strait.
- Refrain from any threat or use of force.
- Engage in activities other than those incident to their normal modes of continuous and expeditious transit only if necessary due to force majeure or distress.



Carriage of Goods by Sea:

- Overview of the Hague Visby Rules and the Hamburg Rules.
- Responsibilities and liabilities of carriers and shippers.
- Bill of lading and its importance in international trade.



THE HAGUE-VISBY RULES AND HAMBURG RULES

Hague-Visby Rules

1. Adopted in 1924 and amended in 1968;
2. Apply to contracts of carriage covered by a bill of lading;
3. Set out the carrier's responsibilities and liabilities for the loss or damage of goods during carriage;
4. Establish a financial limit for the carrier's liability.

The Hamburg Rules are the result of the United Nations Convention on the Carriage of Goods by Sea, which was adopted in Hamburg on March 31, 1978 and came into force on November 1, 1992

Hamburg Rules

1. Hamburg Rules were adopted in 1978;
2. Apply to all contracts of carriage by sea, except charterparties;
3. Provide for a higher level of protection for cargo owners;
4. Hamburg Rules also establish a higher financial limit for the carrier's liability.



The Hague-Visby Rules are more widely accepted than Hamburg rules. As of 2023, there are 109 contracting parties to the Hague-Visby Rules, while there are only 91 contracting parties to Hamburg rules.



ROLE OF INSURANCE IN MITIGATING RISKS IN THE MARITIME INDUSTRY

Maritime insurance plays a vital role in mitigating risks in the maritime industry. It provides financial protection to shipowners, cargo owners, and other maritime interests against a wide range of risks, including:

- Physical damage to ships and cargo: This can be caused by accidents, storms, fires, and other hazards.
- Loss of hire: This is the loss of income that a shipowner incurs when a ship is unable to operate due to damage or other problems.
- Freight charges: These are the costs incurred by a cargo owner to transport goods by sea.
- Third-party liability: This is the liability that a shipowner or cargo owner may incur for damage caused to other parties, such as other ships or property onshore.



MARITIME SAFETY & SECURITY

International conventions and regulations ensuring maritime safety:

- International Convention for the Safety of Life at Sea (SOLAS, 1974)
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1995
- Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1979
- Convention on Facilitation of International Maritime Traffic (FAL), 1965
- International Convention on Load Lines(LL), 1966

- International Ship and Port Facility Security Code (ISPS Code).



MARITIME SECURITY ISSUES* AND INITIATIVES AGAINST THEM

ISSUES

- Thievery
- Trespassing
- Terrorist Threats
- Illegal Maritime Trade
- Piracy
- Human Trafficking
- Environmental Damage



* <https://www.mitags.org/security-guide/>

ENVIRONMENTAL PROTECTION

International Conventions addressing Marine Pollution:

- International Convention for the Prevention of Pollution from Ships, 1973, (**MARPOL**)
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (**INTERVENTION**), 1969
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter(LC), 1972 and the 1996 London Protocol)
- International Convention on Oil Pollution Preparedness, Response and Co-operation(OPRC), 1990
- Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)
- International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS), 2001
- International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004
- The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009

ENVIRONMENTAL PROTECTION UNDER UNCLOS:

Article 192: States have an obligation to protect and preserve the marine environment.

Article 193: Sovereign right of States to exploit their natural resources

Article 194: Measures to prevent, reduce and control pollution of the marine environment

Article 194: Measures to prevent, reduce and control pollution of the marine environment

Article 195: Duty not to transfer damage or hazards or transform one type of pollution into another

Article 204. Monitoring of the risks or effects of pollution

Article 210: Pollution from Dumping



LIABILITY AND COMPENSATION FOR POLLUTION:

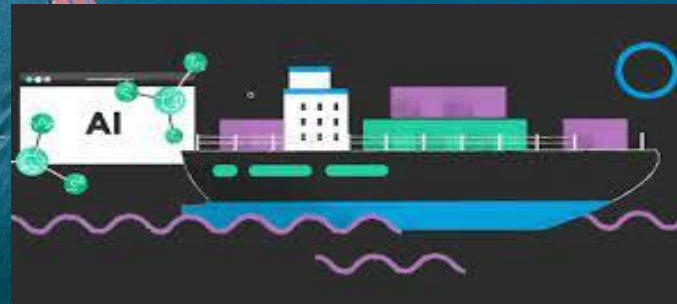
Conventions covering liability and compensation:

- International Convention on Civil Liability for Oil Pollution Damage(CLC), 1969
- 1992 Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND 1992)
- Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (NUCLEAR), 1971
- Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974
- Convention on Limitation of Liability for Maritime Claims(LLMC), 1976
- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996 (and its 2010 Protocol)
- International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- Nairobi International Convention on the Removal of Wrecks, 2007

AI in Maritime Law

Introduction to the Role of AI in the Maritime Industry

- Maritime industry plays a vital role in global trade and transportation.
- Increasing complexity and volume of maritime operations require advanced technologies.
- Artificial Intelligence (AI) emerges as a transformative force in the industry.
- AI refers to the simulation of human intelligence in machines.
- It enables machines to learn from experience, adapt to new inputs, and perform tasks autonomously.



AI in Maritime Law

Key Applications of AI in the Maritime Industry

- **Autonomous Ships;** autonomous ship navigation, reducing human error, enhancing safety, automated collision avoidance systems, route optimization and increasing efficiency.
- **Predictive Maintenance;** AI algorithms analyze sensor data to predict machinery failures, enables proactive maintenance, reducing downtime and optimizing vessel operations
- **Cargo Optimization;** optimize cargo loading and unloading operations, maximizing space utilization



AI in Maritime Law - Contd.

Key Applications of AI in the Maritime Industry

- **Port Operations;** AI-powered systems streamline port operations, including container tracking and management, enhances efficiency, reduces congestion, and improves overall port performance.
- **Environmental Monitoring;** AI facilitates real-time monitoring of environmental factors, such as pollution and climate conditions.



AI in Maritime Law

Legal considerations of AI in maritime operations

- **Data Privacy and Security;** AI systems collect and process vast amounts of data, raising concerns about privacy and data protection, compliance with regulations, such as GDPR (General Data Protection Regulation), is crucial.
- **Liability and Responsibility;** determining liability in case of accidents or errors becomes complex, legal frameworks should address accountability and define responsibility between humans and AI.
- **Intellectual Property;** AI technologies often involve intellectual property (IP) rights related to algorithms, data, and software, clear guidelines on IP ownership and protection are necessary to encourage innovation and prevent infringement



AI in Maritime Law

Ethical considerations of AI in maritime operations

- **Bias and Fairness;** AI algorithms can unintentionally reinforce biases present in training data, leading to unfair outcomes, ensuring fairness and mitigating bias is crucial to avoid discriminatory practices in maritime operations.
- **Transparency and Explainability;** AI systems should be transparent, providing clear explanations of their decision-making processes, the ability to understand and interpret AI-driven outcomes is important for building trust and accountability.



AI in Maritime Law

Ethical considerations of AI in maritime operations

- **Human-Machine Interaction;** Balancing the roles of humans and AI in maritime operations is essential for maintaining human control and oversight, ethical guidelines should emphasize the importance of human judgment and intervention when needed.
- **International Regulations and Standards;** International organizations, such as IMO are developing guidelines and standards to address the legal and ethical implications of AI in maritime operations.



DISPUTE RESOLUTION

Overview of international maritime arbitration and its advantages

International Maritime Arbitration refers to the resolution of maritime disputes through an impartial third-party arbitrator or arbitral tribunal.

Key Features of International Maritime Arbitration:

1. Neutral Forum
2. Choice of Law
3. Expertise
4. Confidentiality
5. Enforceability



DISPUTE RESOLUTION:

Role of maritime courts in resolving disputes

Maritime courts are specialized judicial bodies responsible for resolving legal disputes related to maritime activities and issues. Their role is as follows:

- Jurisdiction & Adjudication
- Interpretation of Laws
- Case Management with procedural steps
- Enforcement of Decisions
- Specialized Expertise
- Legal Precedents
- Public Record
- Binding Decisions
- Appeals Process



EMERGING ISSUES IN MARITIME LAW

1. **Cyber Security:** Cyber security is becoming increasingly important regarding maritime law. Maritime lawyers are working to develop new laws and regulations to protect maritime industry from Cyber Attacks
2. **Autonomous Shipping:** Autonomous shipping is a rapidly developing technology however, there are a numbers of legal and regulatory challenges.
3. **E Commerce:** With the development of e commerce, legal issues are fast growing. This has unearthed several loopholes in maritime law.
4. **Proliferation:** The number of maritime law claims are increasing, consequently leading to increase demand of maritime lawyers who can help resolve these claims.



EMERGING ISSUES

5. **Climate change:** Climate change is having a significant impact on maritime industry from rising sea levels that threatens coastal ports to extreme weather events that can damage ships. Maritime lawyers are working new legal frameworks to address challenges related to climate change.
6. **Drones:** Drones are increasingly being used in maritime operations including cargo operations, surveillance and search and rescue. Legality of which is challenged oftenly.



COVID-19 AND ITS IMPACT ON MARITIME LAW

Port Restrictions

Changes in consumption patterns impacting multiple maritime sectors, most notably fisheries, passenger ferries and cruise ships

- E-Commerce:
- Amazon's profit soars 220 percent as pandemic drives shopping online.
- Bezos is nearly 80% richer (79.8%) than he was before the pandemic, as his personal wealth increased by US\$90.1 billion since March 2020



NICARAGUA vs COLOMBIA

Since the early 20th century, Nicaragua and Colombia have disputed ownership of the mineral and fish-rich waters in the Caribbean Sea, though the two countries do not share a land border.

In a 2012 ruling, ICJ determined maritime boundaries between the countries in a decision that reduced the expanse of sea belonging to Colombia and gave Nicaragua rights to some underwater oil and gas deposits & fishing rights and awarded a series of small islands to Colombia, which Nicaragua disputed.



NICARAGUA vs COLOMBIA

1. The International Court of Justice (ICJ) rejected Nicaragua's bid to gain economic rights over a remote area of the Caribbean Sea beyond 200 nautical miles from its shores.
2. Nicaragua sought a review of its continental shelf limits and new maritime boundaries, but the ICJ ruled against the request.
3. Colombia's existing exclusive economic rights in the disputed area, linked to its sovereignty over the San Andres and Providencia Archipelago, were upheld by the ICJ.
4. The ICJ's decision emphasized that a country's right to claim a continental shelf cannot extend within 200 nautical miles from the baselines of another state.

