

ENHANCEMENT OF MARITIME LAW EDUCATION IN THE INDIAN CONTEXT

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Trade is the life blood of a nation and shipping is the predominant mode through which international trade is carried out. India, as an emerging economic superpower, enjoys a rich maritime heritage in trade and commerce and its associated law is firmly rooted in historical antiquity. While modern Indian jurisprudence enjoys a high degree of repute and recognition in common law circles, in the maritime law field, India is yet to secure a position of superiority in the international arena. Even so, the potential for development in this field is immense, and is realizable through sound university education in public and private maritime law followed by professional legal training and practice. Needless to say, public and private sector support and involvement are necessary to achieve the desired aims and objectives. The advancement of maritime affairs, whether in the public or private domain, depends to a large extent on the availability of maritime law expertise in the country. While technical maritime education and training is world class, and has been so for several decades, placing India as perhaps the most sought after crew supply country in the world, maritime law education is markedly deficient. This paper attempts to explain why maritime law education is necessary in the Indian context and how such education can be enhanced and lifted to its fullest potential within the maritime higher education milieu in India at both undergraduate and post graduate levels.

I. INTRODUCTION

Trade is the life blood of a nation and international trade is carried out predominantly through the mode of shipping. India is an emerging economic superpower much of which is attributable to a spirit of entrepreneurship and a visionary instinct inherent in its people. India enjoys a rich maritime heritage in trade and commerce and its associated law is firmly rooted in historical antiquity. The remnants of a dry dock in the ancient port of Lothal in Gujarat bear evidence to this day of a flourishing sea trade between that region of India and the Persian Gulf and Arabian Sea areas.¹ In the Manu *Samhita* which dates back to 900 B.C., there are recorded rules of maritime law pertaining to bottomry and the

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¹ PROSHANTO K. MUKHERJEE, MARITIME LEGISLATION 11 (2002) (In the late third and second millennium B.C. the people of the Indus Valley civilizations of Harappa and Mohenjodaro conducted active sea-borne trade with Sumerians and Akkadians of the Tigris-Euphrates basin).

recognition of the maritime contract of *foenus nauticum*.² In relatively recent times when Britannia ruled the waves India was the jewel in its crown. The transition of independent India to sovereign statehood was marked by the adoption of several British institutional foundations and superstructures. Among them, is the legal framework characterized by the English common law tradition. Within that framework, there is entrenched in the Indian judicial system the so-called admiralty jurisdiction.

Modern Indian jurisprudence is enviably prolific and the legal system itself enjoys a high degree of repute and recognition at least in common law circles. However, in the field of maritime law, India is yet to secure a position of superiority in the international arena. It is pointless to probe into the reasons for the extant state of affairs; rather, it is important to recognize the immense potential for developing the legal side of the maritime sector in India which can lead to a promising career path for maritime law aspirants. This virtually unlimited potential is realisable through sound university education in public and private maritime law. Of course, it must be followed by professional legal training and practice. To that end in particular and to achieve the desired aims and objectives in general, the support and involvement of both the public and private sector are necessary. The maritime industries including shipping, concerned government departments and agencies, institutions of higher learning, the regulators of legal qualifications and the legal profession itself must all play their respective roles.

India being a major coastal state has numerous public law interests including exercising sovereignty over its territorial seas and sovereign rights over its ocean resources, their exploration and optimum economic exploitation. As a port state India is obviously interested in asserting its port state jurisdiction under international law and effectuating it through port state control of visiting ships. India is also a flag state and a major trading nation. Therefore, commercial maritime interests of India are equally important, and in this regard the role of private maritime law is self evident. The advancement of maritime affairs, whether public or private, depends to a large extent on the availability of maritime law expertise in the country. Hitherto, this expertise held by resident Indian nationals as well as expatriate Indians living abroad has been largely obtained from academic and professional institutions in the western world.³ While technical maritime

² MUKHERJEE, *supra* note 1, 11-12. See JAMES REDDIE, HISTORICAL VIEW OF THE LAW OF MARITIME COMMERCE (1841) (Note Reddie's cross-references to the works of other eminent legal historians, namely, Sir William Jones who translated the Institutes of Hindu Law from Sanskrit in 1796, and the Honourable Mountstuart Elphinstone who mentioned in his writings the "principal titles of law in the Code of Manu").

³ It is recognized, of course, that there are some who have developed their expertise through home-grown experience in the practice of maritime law without the benefit of formal legal education in that field. It is also recognized that there are programmes in public maritime law offered by institutions in India at university levels. This issue will be addressed substantively later in the paper.

education and training is world class and has been so for several decades, placing India as perhaps the most sought after crew supply country in the world, maritime education in the field of law is markedly deficient.

This paper explains what maritime law, in essence, is; why education in maritime law is necessary in the Indian context; what the present centres of excellence in maritime law in the world are and how such education can be enhanced and lifted to its fullest potential within the higher education milieu in India and in particular the national university education system at both undergraduate and post graduate levels. The paper attempts to show that the introduction of basic maritime law subjects in programmes leading to the Bachelor of Laws (LL.B.) degree in Indian universities is a desirable first step. This will, of course, necessitate changes to the Bar Council of India guidelines.⁴ As a second step, postgraduate programmes leading to appropriate law degrees at the Master's level with specialization in maritime law will need to be put into place to provide sound and comprehensive treatment of maritime law subjects. This is perhaps the most viable approach to achieving the desired objective. Finally there should be scope for innovative and forward looking research on current and topical issues in maritime law, both public and private, which may lead to suitable doctoral and post-doctoral qualifications.

II. THE GENRE OF MARITIME LAW

Before promoting the cause of maritime law education it is incumbent upon the promoter to elaborate on what maritime law is. A simplistic answer would be - the law relating to maritime matters. Unfortunately, such an explanation is of little or no assistance to a person uninitiated in the complexities of law, much less in the rudiments of maritime matters, especially if those matters and the associated law extend beyond the bounds of national considerations to international ones. To put it in succinct terms, opinion on what maritime law is frequently rests on one's particular perspective and the diversity of views is often a reflection of subjective perception convoluted by semantics.⁵ Where the perspective is largely commercial, maritime law has been variously described as the "legal framework for maritime transport"⁶ and the "body of legal rules and concepts concerning the business of carrying goods and passengers by water".⁷ Undoubtedly maritime transportation is a commercial activity; nevertheless the legal framework for such activity can be construed as embracing all facets of seaborne transportation

⁴ Ministry of Law and Justice, *The Bar Council of India Rules, Part – IV*, available at <http://lawmin.nic.in/la/subord/bcipart4.htm> (Last visited on November 4, 2010).

⁵ See MUKHERJEE, *supra* note 1, 1-4. (for an overview of various definitions and characterizations of maritime law); See also *supra* note 1, 5-6 (for subtleties in distinction between maritime law and maritime legislation).

⁶ See Guidelines for Maritime Legislation, ST/ESCAP/1076, 1991.

⁷ THOMAS J. SCHOENBAUM & A.N. YIANNPOULOS, *ADMIRALTY AND MARITIME LAW, CASES AND MATERIALS* 1 (1984).

including its regulatory regime. By contrast, the undiluted private law connotation of the business of carriage by water of goods and passengers is clearly evident in the second definition mentioned above.

The public law purist would, of course, present quite a different perspective of ‘maritime law’ if he⁸ were to use that nomenclature at all. If he did, in all probability he would be referring to shipping law which he would unequivocally distinguish from ‘law of the sea’; furthermore, he would emphatically characterize the latter as a branch of public international law. Yet, we may curiously observe that etymologically the word ‘maritime’ derived from the Latin means “of or pertaining to the sea” which expression is quite broad and accommodating without regard to any ‘public law’ or ‘private law’ dichotomy. Thus it is refreshing to note Professor Schoenbaum’s all-embracing definition of maritime law expressed as “...the entire body of laws, rules, legal concepts and processes that relate to the use of marine resources, ocean commerce, and navigation”.⁹

A holistic view of the term “maritime law” was evident in the writings of Professor Sanborn as far back as in 1930 where he referred to “a considerably wider scope” of the law maritime which dealt not only with legal relations arising from the use of ships, but also with the precursor of modern commercial law and public international law.¹⁰ Thus, dividing maritime law into its public and private components can be rather superficial and counterproductive especially when there are hybrids that cannot be neatly categorized as public or private.

Casting aside semantics and the illusive bifurcation of maritime law it is instructive to note that maritime law, whether public or private, as an organized legal discipline arguably has its roots in the Roman law. If one were to adopt the narrower view of maritime law and use the appellation ‘shipping law’ instead, one would trace its origins to the *lex maritima* and the *lex mercatoria* of the Roman law. In the modern context, of course, shipping law also includes the regulatory maritime law exemplified by the numerous conventions generated by the International Maritime Organization (IMO) and the International Labour Organization (ILO).¹¹ Although, strictly speaking, the regulatory maritime law belongs to the genre of public law, in effect it serves as the operational link between the public international law of the sea from which it derives its *raison d’etre*, and the private maritime law. The law of the sea, now largely codified in the United Nations Convention on the Law of the Sea, 1982, contains the framework

⁸ The use of the masculine gender in this paper includes reference to the feminine gender as well unless the context requires otherwise.

⁹ THOMAS J. SCHOENBAUM, *ADMIRALTY AND MARITIME LAW*, Vol. 1 1-2 (1994).

¹⁰ F.R. SANBORN, *ORIGINS OF THE EARLY ENGLISH MARITIME AND COMMERCIAL LAW XVI* (1989) as cited in MUKHERJEE, *supra* note 1, 3.

¹¹ SOLAS, MARPOL, STCW, COLREGS and LOADLINES to name a few of the major IMO Conventions and the recently adopted International Maritime Labour Convention of the ILO, otherwise referred to as the “Super-Convention”.

of international law which is then fleshed out by the regulatory law and the private law.

In some jurisdictions, shipping law or maritime law is notionally subdivided into its 'wet' and 'dry' components. This is particularly the case in England and Wales where the 'wet' elements are typically bundled under the caption 'admiralty law' and the 'dry elements' comprise the commercial maritime law. Admiralty subject matters include collision, salvage, towage, pollution damage, etc. which fall naturally on the 'wet' side of the spectrum whereas carriage of goods by sea and marine insurance are 'dry' areas of law. By contrast, in Canada and the United States, all private maritime law subject matters are referred to as admiralty law and fall under the admiralty jurisdiction of the court, or the admiralty court if there is one. This is the case in India as well. In England and Wales at present, admiralty jurisdiction is exercised by the Commercial Court which is a Division of the High Court of Justice.

Interestingly, admiralty law derives from the Anglo-Saxon legal tradition and originates from the office of the Lord High Admiral who under Royal Prerogative had executive and regulatory jurisdiction over all ships and seafarers under his command and over piracy and prize cases. He was empowered to take cognizance of maritime causes and do justice according to maritime law.¹² The substantive law administered by the Admiralty Court had a continental civilian flavour drawn from the famous *Roles d'Oleron* and incorporated into the *Black Book of Admiralty*. It was distinctively different from the common law which led to serious rivalry between the common law and admiralty jurisdiction and the eventual demise of Doctor's Commons, the bastion of admiralty practitioners and jurists who were all civilians.¹³

In the above text is encapsulated the legacy of the admiralty law which India has inherited. It is within the bounds of this jurisdiction that maritime cases are dealt with in India including maritime criminal matters such as the infamous *Alondra Rainbow* piracy case which has turned out to be a landmark decision of modern times involving coastal zone piracy even though it was one rendered by a relatively inferior court in Mumbai.

III. AN OVERVIEW OF CENTRES OF EXCELLENCE IN MARITIME LAW

It is common knowledge that the United Kingdom is a world leader in the field of maritime law. In this context it is important to note there are two different legal systems in the United Kingdom, namely, the common law of England

¹² MUKHERJEE, *supra* note 1, 21.

¹³ *Id.*, 20-21, 38; See also F.L. WISWALL, *THE DEVELOPMENT OF ADMIRALTY JURISDICTION AND PRACTICE SINCE 1800* (1970) (for a detailed historical account of the strife between the common law and admiralty law courts of England).

and Wales and Scots law in Scotland. It is comparable to Canada and the United States where the common law system prevails in all but the province of Quebec and the state of Louisiana, respectively. The two last-mentioned jurisdictions follow the civil law tradition inherited from France. Maritime law in all its facets flourishes in the United States and Canada as well as in various jurisdictions in continental Europe including France, Germany, Spain and Italy where there are institutions of higher learning that embrace public or private maritime law or both in their curricula. The role of the Comité Maritime International (CMI) in promoting international uniformity in private maritime law is self-evident. In the Asian continent the English law tradition has engendered a fair degree of advancement in the maritime law field in Singapore and Malaysia. The same, however, is not readily evident in the civil law jurisdictions of Asia including the Middle East.

The city of London is arguably the nucleus of the shipping world. The presence of the IMO, the law courts where more maritime law cases are litigated than anywhere else in the world, the institution known as Lloyd's, the marine insurance market, the Baltic Exchange, the majority of the Protection and Indemnity (P&I) Clubs, the International Chamber of Shipping (ICS) and its companion body the International Federation of Shipping (IFS) and Trinity House together with numerous other shipping-related organizations have embellished the city with its maritime name and fame.

When it comes to education in maritime law, undoubtedly England and Wales take the lead. It must, of course, be appreciated that maritime law is an area of specialization in legal education that is only offered at the postgraduate level. Maritime law is not required as a subject in courses leading up to barristers' or solicitors' qualifications. Within the University of London, there are maritime law programmes at University College London (UCL) and the London School of Economics (LSE) which are highly regarded internationally. UCL offers a specialized Master of Laws (LL.M.) in Shipping Law focusing on private maritime law subjects. The name of Late Professor F.J.J. Cadwallader latterly of Cardiff and a legendary icon of maritime law academia is closely associated with the reputation of UCL in the private maritime law field. There are also courses in law of the sea at the LL.M. level. LSE has masters and doctoral programmes in both private maritime law as well as international law of the sea and marine environmental law. This world-renowned institution greatly benefitted from having on its faculty, Professor Patricia W. Birnie, a stalwart academic in her own right in law of the sea and marine environmental law.

Outside London, the Institute of Maritime Law at the University of Southampton is one of the foremost institutions in the world in maritime law education and research at the highest levels. The University of Wales, Cardiff in previous years had the most comprehensive maritime law education at postgraduate levels both in private law as well as law of the sea under the leadership of Professor Cadwallader and Professor E.D. Brown, respectively. The Cardiff institution is now a separate entity known as Cardiff University and its position in the maritime law field has declined considerably. By contrast,

Swansea University which is also now a separate entity has flourished exceedingly although its focus is more on private maritime law and European law. The Institute of International Shipping and Trade Law of this university with the eminent Professor D. Rhidian Thomas at the helm as Director is prospering considerably in research and postgraduate law degrees.

Other British universities where maritime law is taught and researched at postgraduate levels are the University of Greenwich which houses the Greenwich Maritime Institute and the University of Plymouth which also has a Maritime Institute. The Faculty of Law at Plymouth has recently started a maritime law LL.M. programme and the Maritime Institute is promoting the inter-disciplinary field of maritime law and economics through the Maritime Institute and the Business School.¹⁴

Elsewhere in Europe is the Scandinavian Institute of Maritime Law of the University of Oslo in Norway, the Centre for Maritime and Transport Law at the University of Aix en Provence¹⁵ in France, University of Antwerp in Belgium, Erasmus University in Rotterdam, The Netherlands and others which are internationally quite reputed although legal education in general is civil law oriented. In August 2007, Lund University in Sweden embarked on a joint LL.M. programme in Maritime Law in collaboration with the World Maritime University (WMU) in Malmö, Sweden. The programme is hugely successful with two classes having graduated so far. Lund University has also launched a Ph.D. programme in maritime law which is destined to be second to none. These programmes are under the charge of Professor Lars-Goran Malmberg and myself. Incidentally, Professor Malmberg is a world expert and leading academic in transportation and aviation law. WMU itself has a Master's programme, a M.Sc. in Maritime Law and Policy designed for executive level decision makers in both the public and private maritime sectors. In Malta, there is the International Maritime Law Institute (IMLI) which confers an LL.M. in International Maritime Law. It is the second of the two IMO institutions of higher learning, WMU being the first and apex institution and truly an international centre of excellence in all maritime disciplines including maritime law at the LL.M. and Ph.D. levels. I am currently the academic leader of the programme and also the founding Senior Deputy Director of IMLI at its inception. At present WMU offers a joint Ph.D. programme in Maritime and Commercial Law in collaboration with Swansea University.

In the North American continent, there are several universities that offer varieties of programmes in maritime law. Dalhousie University in Halifax, Nova Scotia is in the forefront with a Marine and Environmental Law specialization

¹⁴ Associate Professor Dr. Jingjing Xu, a Master's graduate of World Maritime University who holds a Ph.D. from University of Wales Swansea is leading this initiative at the Plymouth Business School.

¹⁵ Centre de Droit Maritime et des Transport, *Faculte de Droit et de Science Politique*, available at www.cdmtdroit.u-3mrs.fr (Last visited on November 4, 2010).

in the LL.B. programme consisting of at least six to seven courses in admiralty, law of the sea and marine environmental law and an optional independent research paper which can be taken in a maritime law topic. There is a preponderance of maritime law takings at the LL.M. and doctoral (J.S.D.) levels. The eminent Professor Edgar Gold himself a Cardiff Ph.D. was instrumental in launching maritime law as an area of academic focus at Dalhousie Law School back in the seventies. McGill University with which another eminent Canadian maritime law academic Professor William Tetley has long been associated, excels in the study and research of commercial maritime law and public international law. Other Canadian universities with maritime law offerings mainly in the public law and environmental law side are University of British Columbia and University of Victoria, both located in the west coast of Canada.

In the United States the most famous of law schools in the private maritime law field is Tulane Law School in New Orleans. Professor Tetley is associated with Tulane as well, and has been since many years. Among other distinguished academics associated with Tulane the names of Professors Schoenbaum and Yiannoupoulos are conspicuous. Public and private maritime law programmes are also offered in bits and pieces at other renowned law schools such as Harvard and Cornell with which another distinguished maritime law academic, Professor Frank L. Wiswall was associated before his retirement. The University of Virginia and University of Washington in Seattle, among others, are famous for their programmes at all levels in the discipline of international law of the sea.

In the eastern hemisphere, the Marine and Shipping Law Unit (MASLU) of the T.C. Beirne School of Law, University of Queensland, Australia under the directorship Dr. Sarah Derrington has a comprehensive programme in private maritime law and law of the sea.¹⁶ The National University of Singapore (NUS) does not have a comprehensive programme in maritime law but some private maritime law is taught by an eminent professor in residence who is usually on sabbatical from a western university. Among those who have held this position at NUS are Professor D. Rhidian Thomas of UWS and Professor Emeritus Francis Reynolds of Oxford University.

There are, of course, several institutions around the world interested in maritime law, of which some are universities and others are not. They deliver programmes in varying doses depending on the overall focus of the institution, their strategic needs and market demands. In recent years, it has become increasingly trendy for non-university institutions such as academies, schools, institutes, polytechnics and community colleges, both in the non-maritime as well

¹⁶ See TC Beirne School of Law, *Sarah Derrington*, available at <http://www.law.uq.edu.au/academic-staff/staff.php?nm=sarahderrington&tab=> (Last visited on November 4, 2010); See also TC Beirne School of Law, *MASLU*, available at <http://www.law.uq.edu.au/maslu/> (Last visited on November 4, 2010).

as maritime sectors, to acquire university status. There are a growing number of nautical colleges and the like all over the world vying for such status, and India is no exception.

In Japan, China and South Korea, a number of such former maritime academies converted to universities, and have prospered as comprehensive universities while retaining the focus on maritime disciplines. Kobe University of Mercantile Marine (KUMM), now known as Kobe University¹⁷, Dalian Maritime University (DMU), Shanghai Maritime University (SMU) and Korean Maritime University (KMU) are striking examples of institutions which have programmes ranging from seafarer training in conjunction with bachelor's degrees through master's degrees right up to doctoral and post-doctoral level studies and research. All of the above-mentioned universities are developing programmes in maritime law in earnest within their respective law faculties especially DMU and SMU of which I am personally aware.

Other examples of enhancement of academic status in the maritime field are the Australian Maritime College,¹⁸ Southampton Institute (now Solent University), London Polytechnic (now London Metropolitan and previously London Guildhall University) and Hong Kong Polytechnic (now Hong Kong Polytechnic University). In the United States former nautical institutes which are now degree granting institutions include California Maritime Academy and Maine Maritime Academy. The above-mentioned institutions are either fully involved in maritime studies or have a significant maritime unit or department. However, I am not aware of any notable maritime law programme offered at these institutions.

IV. CURRENT STATUS OF MARITIME LAW EDUCATION IN INDIA¹⁹

As mentioned earlier, India is not world-famous for maritime law education. Bachelor's level law studies in India are of two kinds; the three-year LL.B. course following a basic Bachelor's degree and a five-year course following the so-called 'ten plus two' completion of secondary school education. A two-year Master's degree in law is a possible next step. There is no systematic education in maritime law. Indeed, it is an area that has largely been ignored in

¹⁷ This university has a history of some 150 years when it was first established as a maritime academy. As a maritime institution of professional training and higher learning it is probably the oldest of its kind in the world.

¹⁸ See *University of Tasmania*, available at <http://info.utas.edu.au/> (Last visited on November 4, 2010) (The Australian Maritime College (AMC) and UTAS will officially integrate on January 1, 2008, with AMC becoming a specialist institute of the University).

¹⁹ For much of the information contained in this section of the paper, I gratefully acknowledge the assistance of Abhinayan Basu Bal, Advocate Calcutta High Court and currently a Ph.D. candidate in commercial maritime law at World Maritime University, and Dr. Sunitha Sundar, Advocate and practitioner in admiralty law in Chennai.

the Indian higher education milieu whether within law faculties of universities, independent law schools, or otherwise. This is certainly the case with regard to private maritime law. Just as a subject, maritime law does not feature in law studies at the Bachelor's degree level except in the typical five-year Bachelor's programme, where international law is offered containing an element of law of the sea. Unfortunately, there is no specialization in maritime law in any Indian university including those located in the coastal states of India where there are major ports. The reasons for the relatively low level of maritime law education are not entirely clear although some conjectures can be made. It appears that appreciation for the merits of pursuing this discipline is generally lacking in all relevant quarters. The *status quo* in some respects is also attributable to a *laissez faire* attitude of inertia, i.e., unwillingness to bring about change, be it for better or for worse. A synopsis of details known to myself with regard to maritime law education in India is presented below.

As far as I am aware, the best maritime law education in India at the higher learning level is offered at the Jawaharlal Nehru University (JNU) in New Delhi. There, international law of the sea is offered as an area of study and research at the M.Phil. and Ph.D. levels at the Centre for International Legal Studies (CILS) of the School of International Studies (SIS). At present there is a Ph.D. candidate pursuing research in Maritime Security. The JNU is world-renowned as a centre of excellence in public international law. New Delhi is also the city where the Indian Society of International Law (ISIL) resides. It is under the auspices of the ISIL that the prestigious Indian Journal of International Law is published.²⁰ Many learned articles in the law of the sea have been published in this journal over the years.

Among the few and far between private maritime law courses presently offered in India, one is an elective course in Multi-modal Transport law at the Bachelor's level in the Army Institute of Law, Mohali affiliated to the Punjabi University of Patiala.²¹ At the renowned National Law School of India University (NLSIU) in Bangalore, in the Master of Business Law programme, there is a course in Foreign Trade and Commercial Transactions. This course has a module captioned 'Transport of Goods' which provides a brief coverage of the law of carriage of goods by sea. Apparently, the Insurance Law course in this programme also contains some surface-scratching treatment of marine insurance. The Insurance Institute of India offers a 'Marine' specialization at the associate ship level for insurance professionals who wish to work in the area of marine insurance. It seems, however, that the maritime law element of the course is limited to consideration of marine clauses and constitutes only one of six papers.

²⁰ The Indian Society of International Law, *Guidelines for Contributors to Indian Journal of International Law*, available at <http://www.isil-aca.org/guidelines.htm> (Last visited on November 4, 2010).

²¹ Admission News, available at http://www.admissionnews.com/college_details.aspx?colid=15222 (Last visited on November 4, 2010).

An exemplary attempt at promoting private maritime law education has just been initiated at the W.B. National University of Juridical Sciences (NUJS) at Kolkata. An introductory course providing an overview of maritime law is being offered as an elective to current LL.B. students with the aim of attracting interest in this subject. I along with Dr. Abhinayan Basu Bal, lecturer in law at the Faculty of Law of Lund University in Sweden, have been invited by NUJS to deliver the course. Hopefully, this modest beginning will serve as an impetus and launching pad for the establishment, in due course, of a maritime law specialization at the LL.M. level.

At the doctoral level of law studies, a candidate can choose a private maritime law subject as an area of research. However, adequately qualified supervisors are not readily available, as a result of which candidates are largely left to their own devices. Obviously, this state of affairs is discouraging for those who wish to pursue maritime law at the highest levels of academia. The most ambitious ones naturally drift away to universities abroad.

It does not appear that the 'Para-maritime universities', i.e., nautical or marine engineering colleges which have embarked on Bachelor's degree programmes offered concurrently with seafarer training courses where the degrees are conferred by established universities through affiliation, have any maritime law subjects to speak of, in their curricula. It is recognized that in the nautical colleges, with or without university affiliation, there is a smattering of maritime law in the courses leading up to the STCW Class I certificates of competency for masters of ships of unlimited tonnage on worldwide trade. The standard text on the subject, at least in the Anglophonic countries is 'Business and Law for the Shipmaster' by F.N. Hopkins, Extra Master. This book has for decades served its purpose well, the current edition of which reflects the required syllabus in the STCW Convention.

In so far as the practice of law is concerned, private maritime law specialists account for no more than 0.01% of the population of Indian lawyers. The few who dominate the field have carved out a niche and their practice is largely confined to cargo damage claims, disputes relating to freight and related charges, charter party disputes and ship arrests to enforce maritime claims of sorts. Awareness of maritime law and its importance is relatively low in the trade and commerce community. Admiralty jurisdiction is vested only in the High Courts of Mumbai, Kolkata and Chennai and the practice is no more than 1 to 2% of the total practice.

In summary, what is obtained at present in terms of maritime law education in India is far less than what is necessary for international recognition. As harsh as it may sound, the criticism is not intended to be entirely negative; but rather to provide a rational platform for promoting the cause of enhancing education in this field given the need and corresponding want of expertise, the limitless opportunities prevailing in India and abroad, particularly in other emerging Asian economies, and India's already dominant position in other aspects of shipping.

V. RATIONALE FOR ENHANCING MARITIME LAW EDUCATION IN INDIA AND PROPOSALS TOWARDS ACHIEVING THE DESIRED OBJECTIVES

Undoubtedly, the name of the late Padma Vibhushan Dr. Nagendra Singh stands out as the most illustrious of Indian maritime law scholars and practitioners of recent times. He bore the rare dual distinction being both a jurist and an author of superlative stature and accomplishment. Volumes 1 to 4 of the British Shipping Law series on *International Maritime Law Conventions* and volume 13 on Ship-owners, which he co-authored with Raoul P. Colinvaux, are regarded as being among the most authoritative works on those subjects.²² He was a member of the United Nations International Law Commission from 1967 to 1972, and of the Permanent Court of Arbitration at The Hague from 1967 to 1983. As a distinguished jurist he was a member of the International Court of Justice for 15 years from 1973 to 1988 and held its Presidency from 1985 to 1988.²³ He received Master's and Doctorate degrees, substantive and *honoris causa*, from numerous universities at home and abroad.²⁴ His achievements in the field of international maritime law are too many to be recounted in this humble attempt to pay him homage. It is difficult if not impossible to identify anyone of such outstanding greatness in the modern milieu of maritime law internationally, let alone in his native India. In my opinion this scion of international maritime law who in his life time was larger than life itself being Indian is more than rationale enough for India to pursue world class maritime law education in the current climate of economic advancement.

As alluded to previously, it appears that more Indians have excelled in the public than in the private maritime law domain. Indeed, from the education perspective, there are several eminent Indian scholars who have taught law of the sea and researched in this field. They include personalities such as Professor R.P. Anand²⁵ of JNU and Dr. S.P. Jagota²⁶ whose scholarly works are widely reputed and respected internationally. India's national interests in the public maritime law arena are of no less importance than those in the commercial maritime law field.

Be that as it may, if commercial potential and success is the gauge that falls under the watchful eyes of the younger generation of Indians seeking a career in law, then private maritime law is not to be disregarded. To establish a

²² Published by Stevens & Co., London in 1973 and 1967, respectively. See ICJ Press Release dated December 13, 1988 available at <http://www.icj-cij.org/presscom/files/7/10087.pdf> (Last visited on December 24, 2010).

²³ See <http://www.icj-cij.org/presscom/files/7/10087.pdf> (Last visited on December 24, 2010).

²⁴ M.A., LL.D. (Cantab), D.C.L. (Delhi), M.A., D. Litt., LL.D. (Dublin), D.Sc. (Law Moscow), D. Litt. (Bihar), D.Phil (Calcutta).

²⁵ Author of the renowned text *ORIGIN AND DEVELOPMENT OF THE LAW OF THE SEA*, (1982).

²⁶ Former Head of the Indian Delegation's former Head to the Third United Nations Conference on the Law of the Sea.

rationale for enhancing maritime law education in India one needs to first observe the trend in the emerging Asian economies of Singapore, Malaysia, China and South Korea, and second, recognize that even in Europe, the traditional bastion of commercial shipping, there is an acute shortage of expertise in maritime law. For this reason, European universities are increasingly looking to initiate or strengthen their maritime law capabilities. The example of Lund University in Sweden has been cited earlier. As a matter of national concern the dearth of maritime law education in Swedish universities was recognized. It provided the impetus for the collaboration between Lund University and WMU to start a joint LL.M. programme. In The Netherlands and Belgium which are leading maritime nations in continental Europe, public concern has recently been expressed over the dearth of maritime lawyers and adequacy of legal education in that field.

India is now a major player in the eastward movement of the world economy, and there is no doubt that shipping has much to do with the pace and momentum of development. India, as a common law shipping jurisdiction with an enviable history and tradition can offer itself as a centre for numerous maritime law activities ranging from a potential arbitration venue to a marine insurance market. The admiralty side of the judicial system can be strengthened with advanced expertise in that field of law; and there is no reason why the requisite postgraduate education cannot be offered by the law faculties of established Indian universities and the new trendy law schools.

Maritime Law education in India can take different shapes and forms. In a Bachelor's degree programme of a university or law school, public and private maritime law subjects may be included in the curriculum in as much variety and depth as may be needed. This is typically the Dalhousie Law School model referred to earlier. In most universities around the world, as previously indicated, maritime law is a specialization that is offered at the master's level. That is typically the Swansea, Southampton and London model.

Unless faculty resources are plentiful and maritime law education is perceived as a hallmark of the university, the Dalhousie model is not recommended. A major difficulty with including maritime law in a LL.B. curriculum is that most LL.B. curricula are designed according to the requirements of the local Law Society or Bar Council which prescribe the core subject areas necessary for the practice of law in that jurisdiction. Except for the Bar of Newfoundland, I am not aware of any other jurisdiction where maritime law is a required course for admission to the Bar. Inclusion of maritime law as a subject in any LL.B. course would seem unjustifiable; and it would be equally unreasonable to expect any Law Society or Bar Council including the Bar Council of India to prescribe maritime law as a required subject for entry to the Bar.

Therefore, to enhance maritime law education in India it would make most sense for university law faculties and law schools to offer maritime law as an area of specialization in their LL.M. courses. Depending on the perceived needs, academic aspirations and availability of specialist faculty, maritime

programmes at the LL.M. level can be offered only in public law as is the case in JNU, or only in private law, or if affordable in all respects, in both. Naturally, LL.B. graduates who have entered the Bar and wish to specialize in maritime law, public or private, would make their own choices depending on their ambitions and the practice market. In the past such aspirants have looked abroad to fulfill their career ambitions. If programmes similar to the foreign universities mentioned above were to be offered in India, there is little doubt that prospective specialists in maritime law would enroll at Indian Universities offering the LL.M. degree with a maritime law specialization.

One must not ignore the fact that today there is increasing interest in the study of maritime law by non-law practitioners and even persons without any law background at all. Typically these would be maritime professionals involved in various occupations which have a public or private maritime law dimension. Such maritime professions can range from various aspects of ocean science, marine environmental science and hydrography to engineering and technology. Shipping company executives, government maritime administrators, marine insurance brokers, crew recruitment administrators, insurance and average adjusters, ship and cargo surveyors and academics would have a keen interest in an area of maritime law related to their line of work. These maritime professionals would benefit immensely from a programme offered at the master's level that is not purely maritime law, but is designed specifically to provide a sound appreciation of that discipline tempered by policy, management and administration considerations. This is the typical Maritime Law and Policy programme recently instituted at WMU.²⁷

It would be most desirable for institutions such as the Academy of Maritime Education and Training University (AMET) in Chennai, other maritime institutions with university affiliations and the recently launched Indian Maritime University (IMU) to consider such a programme at the master's level. Whether a maritime law programme for non-law graduates should be offered at the Bachelor's or Master's levels is debatable. In my opinion maritime law is too specialized and demanding to be included in a Bachelor's degree course.

VI. SUMMARY AND CONCLUSION

The paper attempts to highlight the as-yet untapped potential in India for a career in public or private maritime law. To realize that potential, what is needed is specialized maritime law education at the postgraduate level. Given the position of India as an emerging economic superpower of the current century and the prowess of its citizens in advancing the cause of shipping, maritime law is a commodity that can no longer be boxed into a watertight compartment with

²⁷ University of Wales, Cardiff at one time offered a M.Sc. in maritime law along these lines, but the programme no longer exists.

an innocuous label. While young Indians are thriving in the present glamorous realm of information technology, maritime law is being passed by virtually unnoticed. The few practitioners in the field have carved out a niche but there is room for many others. The opportunities are innumerable not only at home but overseas as well, particularly in new jurisdictions with high growth factors but infant legal systems.

The enhancement of education in India in the maritime law field, however, cannot be achieved without the conscious support of government and industry alike. The impetus naturally must come from the government departments and agencies involved in maritime matters. The role of the government would include the development of strategic objectives and formulation of rational policy to effectuate the same. Various components of the broad-based private maritime sector especially the shipping industry also has an important role to play in this endeavour. Government as well as private universities including institutions of higher learning dedicated to the study of maritime law are seen as providing the fertile grounds for such education.

Numerous models are available for developing suitable curricula; these can be obtained from the many well-established universities with maritime law programmes. In this paper, the leading law schools and universities offering maritime law have been identified. The availability of expert faculty must be perused in each case as well as the relevant scholarly literature in public, regulatory and private maritime law. Any envisaged programme should also build on what already exists in Indian universities and law schools. The step-by-step building block approach is highly desirable such as what NUJS seems to be aspiring to achieve.

Needless to say, maritime law education cannot be enhanced unless adequate attention is also given to career prospects of the graduates. Interest must be inculcated among the educated youth of India and to that end market surveys will be necessary. Interest in maritime law appears to be sprouting among young Indian law students. Recently an article on ship arrest written by three law students, two from NUJS and one from the Hidayatullah National Law University in Raipur, was published in a leading maritime law journal in the United Kingdom.²⁸ Such interest should be fostered by publicizing the merits of enhancing maritime law education in India and drawing the same to the attention of potential entrants into the field. There is a promising future in maritime law as a career for Indians in India as well as abroad and every effort should be expended to take advantage of India's on-going role in world shipping and its emergence as an economic force to be reckoned with in the years to come.

²⁸ See Dyutimoy Mukherjee *et. al*, *Ship Arrest in India*, 13 JIML 4 233, 289-99 (2007).

