

A Study of Indian Merchant Shipping Act, 1958 in Light of Ongoing Legislative Pondering

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Abstract- India with a favourable geography and long maritime history has major maritime potential. However its performance has remained below par given its share in annual world cargo tonnage and other considerations. Given that the Merchant Shipping Act, 1958 is the major comprehensive law regulating its seafaring activities the same invites scrutiny. The legislative bodies attempted to replace the Act in 2016 but failed to do so and at present deliberations are on and a draft Bill has been circulated for public comments. Interestingly, on the other hand several independent Acts touching upon the subject matters related to the 1958 Act have been successfully enacted. In light of these developments the 1958 Act requires a revisit.

Keywords: Bill; Convention; Maritime; Merchant; Piracy; Review; Ship; Shipping;

Introduction

India has a long sea faring history and its trade through sea route was extensive, with the Arabs, Romans and others in the west to Java, Sumatra, present day Indonesia and several others in the east.¹ The empires like Sri Vijaya and Chola, to name a few, were reckoned for their naval force and extensive shipping activity. However when the Britishers gained control of the country they discouraged the Indian shipping industries and gave preference to English shipping industry which was not surprising given their history around such measures². They applied their English Laws to Indian Ships and seafaring activities so much so that even the Indian ships became technically English ships as they were supposed to be registered in England. In the process several legislation were applied to India³ however the first comprehensive legislation specifically dealing with merchant shipping was the Indian Merchant Shipping Act enacted in 1923⁴, the provisions of which were in line with the U.K. Merchant Shipping Act, 1894, not surprising given the colonial rule of the time.

Development Post Independence

After independence a comprehensive legislation was passed by Indian Parliament in 1958 known as the Merchant Shipping Act, 1958. The Act has been constantly under revision and amendments to address the needs of the changing time as well as to ratify the changes approved by the International Maritime Organisation⁵ through its conventions and protocols of which India is a Member.⁶ Moreover, several review committees are often formed to study and review the Acts dealing with maritime issues in order to incorporate required changes and modifications to address diverse needs in an ever growing competitive and challenging maritime activities including that of shipping. One such review committee was appointed by the Government of India, in 1991, under the Chairmanship of Directorate General (Shipping) to study the provision of the Act in its entirety and give suggestions for amendments taking into consideration the International Conventions which India has ratified.⁷

¹ Ministry of Ports, Shipping and Waterways, India, 'The Sagarmala Post' (Nov-Dec 2020) p18 available at <<https://sagarmala.gov.in/sites/default/files/The-Sagarmala-Post%20nov-dec-1st%20june.pdf>> accessed on 1 February 2023.

² Ademola Abass, *Complete International Law: Text, Cases, and Materials* (2012 OUP) p216.

³ Law Commission of India, *Fifth Report on British Statutes Applicable to India* (1957) p 59-60. Available at <<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080589.pdf>> accessed on 1 February 2023.

⁴ The Indian Merchant Shipping Act, 1923. Available at <https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A1923-21.pdf> accessed on 1 February 2023. Also see <https://www.dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap1#:~:text=The%20third%20Act%2C%20namely%2C%20the,of%20Indian%20Shipping%20Act%2C%201947.>> accessed on 1 February 2023.

⁵ Convention on the International Maritime Organisation, 1948. Available at <<https://www.imo.org/en/About/Conventions/Pages/Convention-on-the-International-Maritime-Organization.aspx>> accessed on 1 February 2023.

⁶ See, for eg, International Convention for the Safety of Life at Sea, 1974 <<https://treaties.un.org/pages/showDetails.aspx?objid=08000002800ec37f>> ; International Convention on standards of training, certification and watchkeeping for seafarers, 1978 <<https://treaties.un.org/pages/showDetails.aspx?objid=08000002800d6d42>> ; International Convention on Load Lines, 1966 available at <<https://treaties.un.org/pages/showDetails.aspx?objid=0800000280126bbe>> accessed on 1 February 2023.

⁷ Supra 4. Also see Section 459 of the Merchant Shipping Act 1958.

As could be rightly assumed that in the year 2022 a law passed in the decade of 1960s, especially, that dealing with such dynamic field of activities where new technology and means and methods are invented every now and then coupled with ever expanding trade and transport of goods so central to the world economy and globalisation, can not handle efficiently everyday activities and challenges at sea involved with merchant shipping.⁸ Hence several demands by experts and stake holders alike has constantly been made which has forced governments to come up with proposed legislations several times in recent past. Unfortunately the proposed Bills have yet not materialised into law and have been found to be lacking on several aspects.⁹ However one can clearly measure the intent and priorities of the government and the direction of the wind of change by going through the proposed drafts¹⁰ and introduced Bills.¹¹ A Bill introduced in the Parliament named The Merchant Shipping Bill, 2016 in an attempt to replace the 1958 Act lapsed¹² recently and another Draft Merchant Shipping Bill 2020¹³ has been released for public scrutiny by Ministry of Ports, Shipping and Waterways. In the following paras attempt would be to highlight such new approach in comparison to the 1958 Act.

It is submitted that despite being an amending and consolidating Act it is just one aspect of Indian Maritime activity and there are several other Acts and Rules which constitute the Indian Maritime Laws. Also United Nations Convention on the Law of the Sea 1982 covers various aspects of the maritime laws as well. In addition several Central Governments made Rules and notifications supplement the Act.¹⁴

The Merchant Shipping Act 1958: An Overview

The object and purpose of the said Act is 'the development and efficient maintenance of Indian Mercantile marines so that they could serve the national interest in the best way and creation of national shipping board and shipping development fund along with the provisions for registration of ships' and the obvious purpose of amendment and consolidation of existing laws related to the shipping. Given that the shipping development fund has been abolished the said statement holds true for the rest of the objectives but the shipping development fund. Further, the intent and purpose of the Act is better explained in the suggested preamble by the Review Committee which now includes provisions that provide for registration of Indian ships, safety of ships, welfare of seafarers etc.

The Merchant Shipping Act as it exists on February 2023 has 461 sections (this is the number accorded to the sections as title the actual number when counted is more than 560) divided in 24 parts (I to XVIII) and also has a Schedule. Each part deals with specific aspects of merchant shipping like registration of ships, sailing vessels and fishing vessels, National Shipping Board, manning of ships, engagement, discharge and repatriation of seamen and apprentices, safety of passenger and cargo ships, control of Indian ships and ships engaged in the coasting trade, collisions, prevention and control of pollution of the sea by oil from ships, limitation of shipowners' liability, civil liability for oil pollution damage etc.

The schedule on the other hand lists the local and Foreign laws, in two different parts, applicable to Indian shipping activities which were repealed either wholly or in parts. Obviously the foreign laws could not be repealed by an alien state except the state which legislated it hence instead the schedule lists in very clear terms that the repeal was of those provisions which were made applicable to India through relevant procedures required at particular point of time.

Brief Description of The Merchant Shipping Act, 1958 and the Changes Proposed

The basic provisions of the 1958 Act as enumerated in various parts in brief are as under: -

A. Part I gives short title of the Act and date of commencement, application of the Act and definitions of the terms used in the Act. The definitions have been given for 66 terms which can be broadly categorised into those dealing with various kinds of ships and vessels based on different criteria such as their inbound or outbound activities, such as home trade ships, foreign going ships, or even nationality such as Indian ship or the kind of goods or load they are carrying by including the definition of Cargo ship, Tanker or by their activities such Passenger ship, Coasting ship or Fishing vessel. Even the stages of a ship has been defined such as Sailing vessel and Wreck. The definition of persons based on the capacity I which they they are onboard I also defined for instance Passenger and Seaman. Besides many terms have been defined in respective parts part where they appear. In all it deals almost all aspects involved in shipping activity right from the ownership and registration of the ship to its wreckage and the consequences ensuing thereby and all those meaningful activities that is involved with shipping in between.

⁸ See, The Merchant Shipping Bill 2016, Statement of Objects and Reasons, available at <https://prsindia.org/files/bills_acts/bills_parliament/2016/Merchant%20Shipping%20Bill,%202016.pdf> accessed on 1 February 2023.

⁹ Parliament of India, Standing Committee Report No. 249 on The Merchant Shipping Bill, 2016 at p 56 para 190. Available at <https://prsindia.org/files/bills_acts/bills_parliament/2016/SCR-%20Merchant%20Shipping%20Bill,%202016_0.pdf> Last accessed on 1 February 2023.

¹⁰ PIB, 'Ministry of Ports, Shipping and waterways issues Draft Merchant Shipping Bill, 2020 for Public Consultation: New Bill aims to repeal and replace the Merchant Shipping Act, 1958' (26 November 2020) available at <<https://pib.gov.in/PressReleasePage.aspx?PRID=1676050>> accessed on 1 February 2023.

¹¹ Supra 8; Also see <<https://prsindia.org/billtrack>> accessed on 1 February 2023.

¹² Infra 11.

¹³ Draft Merchant Shipping Bill, 2020. Available at <https://shipmin.gov.in/sites/default/files/Draft_MS_Bill_2020.pdf> accessed on 1 February 2023.

¹⁴ See, Sections 6, 55, 74, 87, 113, 167, 177A, 218A, 236, 262, 282, 284, 288, 289, 296, 299B, 311, 330, 344, 344I, 344T, 352FA, 352R, 352ZA, 356, 356O, 356Y, 386, 404, 414, 435, 435U, 449, 457, 458, of the Merchant Shipping Act 1958.

The review committee¹⁵ had suggested to delete the definition of certain terms since their meaning was obvious and well explained in the respective parts they appeared and had perfect clarity hence no need for repetition. Also it suggested amendments of the definition of few terms which were not that clear while recommending the addition of certain new terms not previously defined.

B. Part II of the Act provides for the establishment of a National Shipping Board, its functions and powers of the Government to make rules in this respect for term of office of members, appointment of officers or other allowances of Board members. The board is an advisory body constituted of members from both the houses of parliament as well as the Central Government and other stakeholders such as the ship owners and seamen but not exceeding 16 in total with another condition which requires the number of members from amongst ship owners and that of seamen equal. Understandably the intent of the legislators have been to give proper representation to all the stakeholders.

C. Part III deals with the General Administration, appointment of Director General, establishment of Mercantile Marine Departments, Shipping Offices, Seaman's employment offices and Seamen Welfare Offices. It also deals with the appointment of Principal Officers at Mercantile Marine Department, Mumbai, Calcutta and Madras and other officers at other ports, appointment of surveyors, radio inspectors, Shipping Masters, Director of Seamen Employment Offices and Seamen Welfare Officers.

D. Part IV which dealt with the formation of Shipping Development Fund and related committee now stands omitted courtsey Merchant Shipping (Amendment) Act of 1986 (66 of 1986).

E. Part V deals with the registration of Indian ships. It defines the Indian ships, makes registration obligatory for every ship above 15 ton and violation of the same would result in its detention, provides for procedure for registration, Grant of certificate of registry, endorsement for change of Master and Owner, provision for transfer of ships shares etc., rules as to name of ship, provisions for registry of alternations registry a new and transfer of registry, national character of the ships and flag etc. On a perusal of the aforesaid provisions, it is quite clear the property in a ship has to be divided into ten shares and also deals with who can own a ship.¹⁶

Section 26 provides for an application to be submitted for the registry of Indian ship. Further, Section 27(1) stipulates that the owner of every Indian ship in respect of which an application for registry is made shall cause such ship to be surveyed by a surveyor and the tonnage of the ship ascertained in the prescribed manner. Sub-section (2) of the said provision mandates that the surveyor shall grant certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship to be prescribed and the certificate of the surveyor shall be delivered to the registrar before such registry. Such surveys not only adds revenue by checking the frauds but also avert accidents and consequent oil spills by ascertaining the seaworthiness of the ships and ensuring that the capacity of the ship matches the load it carries.

F. Part VI gives provisions relating to the certificates of officers such as Masters, Mates, Engineers, Skippers etc., and also requirements of officers onboard various category of ships. Review Committee had recommended that instead of specifying the manning scale in the Act itself, Government should have rule making powers to prescribe different manning scale for different types of ships and also to carry a safe manning document on board the ship. The said suggestion was implemented by way of Amendment in 2002 and now central government has such power as suggested.¹⁷

G. Part VI A contains provisions for obligation of certain certificate holders to serve Government or in Indian ships.

H. Part VII deals with seamen and apprentices. It gives wide ranging provision for classification of seamen, their engagements, discharge, payment of wages, their right for wages dispute between seamen and employers, provisions for property of deceased seamen and apprentices, distressed seamen, provisions for health and accommodation, protection of seamen in case of litigation and other matters, provision as to discipline, duties of Shipping Master, business of Seamen employment offices and function of National Welfare Board for seafarers, an advisory body. The board looks after the interests and amenities by its suggestions. By an Amendment in 2014 a provision grants the power to the Central Government of making provisions to incorporate Maritime Labor Convention related measures. Instead of directly incorporating the Convention the Act gives discretion to the Central Government whether to implement or not and to what extent.¹⁸

I. Part VIII deals with passenger ships, their survey, Certificate of survey, powers of surveyor, fee, duration of survey, etc. Without the said certificate no ship can carry more than 12 passengers from Indian port to other Indian port or from Indian Port to any other port. It provides for keeping order in passenger ships specifying certain acts of persons as an offence under the act. This part also contains provision for special trade passenger ships and pilgrim ships.

J. Part IX of the Merchant Shipping Act 1958 deals with the provisions relating to Safety mentioning popular international conventions namely Load Line Convention and Safety Convention. This part gives the provisions relating to construction rules for ships, prevention of collisions, life saving appliances and fire appliances, installation of radio telegraphy radio telephony and direction finders, signaling lamp and provisions relating to stability information. The part also deals with the provisions relating to Safety Certificates, Safety equipment certificates, Safety radio telegraphy Certificates, exemption certificates, etc., provision for determining load lines, issue of load line certificates and special provisions as to ships other than Indian ships. This part also provides powers to make rules as to special kinds of goods susceptible to fire or similar accidents such as timber cargo, carriage of dangerous goods, grain loading plan and carriage of grain. The provisions also exists for sub division load lines, unseaworthy Ships, detention of unsafe ships and liability for cost of detention and powers to make rules to issue certificates under this part. It is submitted that

¹⁵ Supra 4.

¹⁶ *Halliburton Offshore Services INC & Anr. Vs. Principal Officer of Mercantile Marine Respondent(s) Department & Ors.*, Supreme court of India. Judgment delivered on 20 April 2017 available at <http://supremecourtindia.nic.in/FileServer/2017-04-20_1492683787.pdf> Last accessed on 21 April 2017.

¹⁷ Infra 27.

¹⁸ Ins. by Act 32 of 2014, s. 16 (w.e.f. 1-4-2015).

while all possible contingency regarding safety of the ship has been considered but it falls short of making provisions for security from various kinds of threats such as piracy and terrorism.

Recently, the Maritime Anti-Piracy Act, 2022¹⁹ was passed which implements the UNCLOS 1982 provisions dealing with Piracy.²⁰ It is applicable to the High Seas²¹ and follows extradition practices where there is treaty in that regard if none then on the basis of reciprocity.²² It provides punishment for the crime of Piracy which may even extend to death sentence.²³ Provisions of Indian Penal Code and CrPC are also applicable in certain conditions.²⁴ To try the offence under the Act there are Designated Courts which actually are Session Courts which have been authorised as such.²⁵

K. Part IXA deals with Nuclear Ships. The world nuclear carries its own weight and this Act is no exception. Special concessions has been given from the application of Acts to nuclear ships however not in safety as Nuclear passenger and Nuclear Cargo Ship Safety Certificate related provisions have been made. The review committee²⁶ had suggested for inclusion of a new part – Part IX B to cover provisions for mobile offshore Drilling units running from section 344 J to 344 Z. The same was instituted in 2007 by way of Amendment.²⁷

L. Parts X, XA, XB deal with liabilities in case of collisions accidents damages for certain kinds of pollution and other similar unfortunate events. The review committee suggested to include a new part XC to give effect to provisions of International Oil Pollution fund Convention 1971 and its protocol. The same was instituted in 2002 by way of an Amendment.²⁸

M. Part XI provides Navigation related instructions such as giving helm or steering orders to turn the head of the ship left or right, the manner of communicating reports of danger to navigation, obligation to respond to distress signal and render assistance to persons and ships in danger, etc. This part is also under amendments in accordance with the recommendations given by the review committee to include foreign flag vessels under purview, giving information by Indian ships about position, course, speed to maritime administration and provision for Indian ships to be fitted with prescribed navigational aids and equipment.

N. Part XIA contains provision for prevention and containment of pollution of the Sea by Oil. As the name suggests it aims at prevention and gives powers to Central Government for prohibition as to discharge of oil and oily mixtures, inspection and control of ships to which Oil Pollution Convention applies, maintenance of Oil record book, oil reception facilities at the ports in India and powers of the Government to take measures for preventing or containing oil pollution, direction to certain ships to render assistance and even provision for levying pollution cess was there but the same was abolished in 2016.²⁹ Earlier, this part did not provide for the action to be taken when oil escapes. This lacuna has proved very costly for the environment especially the components of marine environment. The review Committee recommended to empower the Central Government to take appropriate action when oil escapes. The 2004 Amendment provided extensive power to central government whereby it can order any ship or other vessel to assist in whatever manner directed to check the oil spill etc.

O. Part XIB was instituted in the Act by Amendment in 2014.³⁰ With the advancement in science and technology and long observation it was found that several substances used as anti-fouling coating are actually very harmful for marine environment. Hence this part prohibits the usage of such products. To check the same International Anti-Fouling System Certificate has been made mandatory for ships, sailing for international voyage, which have gross tonnage of 400 or more. Thus this part gives effect to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.³¹

P. Part XII provides for investigation and inquiries in shipping casualties. It gives powers to the Court for holding formal investigations, to arrest witnesses or enter the ships, to commit trial, to censure masters, mates or engineer, or to remove master including measures like suspension of their respective certificates. In those cases where the casualty occurred at foreign waters a marine board can be appointed by counselor officer. Constitution of court of survey, reference in difficult cases to scientific persons and investigation into explosions or fire on board of ship are the other provisions of this part. The review committee had suggested to constitute a formal board of investigation headed by a judge instead of giving the matters to the court, as it is assumed that the court take too much of time in coming to a conclusion.

¹⁹ The Maritime Anti-Piracy Act, 2022, available at <https://prsindia.org/files/bills_acts/acts_parliament/2023/The%20Maritime%20Anti%20piracy%20Act,%202022.pdf> accessed on 10 September 2023.

²⁰ UNCLOS 1982, Part VII Section 1, Available at <https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf> accessed on 10 September 2023.

²¹ The Maritime Anti-Piracy Act, 2022, Section 1 (3).

²² Ibid Section 14.

²³ Ibid Section 3(ii).

²⁴ Ibid Section 12 (2), 13 etc.

²⁵ Ibid Section 2(d) and Section 8.

²⁶ Supra 4.

²⁷ The Merchant Shipping (Amendment) Act 2007 (Act 40 of 2007), s. 6 (w.e.f. 1-3-2008) available at <https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A2007-40.pdf> accessed on 10 September 2023.

²⁸ The Merchant Shipping (Amendment) Act, 2002. Available at <<https://faolex.fao.org/docs/pdf/ind79247.pdf>> accessed on 10 September 2023.

²⁹ The Finance Act, 2016 (28 of 2016), section 239 and the Fifteenth Schedule (w.e.f.14-5-2016) Available at <<https://taxguru.in/wp-content/uploads/2016/05/Finance-Act-2016.pdf>> accessed on 10 September 2023.

³⁰ Supra 17.

³¹ International Convention on the control of harmful anti-fouling systems on ships, 2001. Available at <<https://treaties.un.org/doc/Publication/UNTS/No%20Volume/56215/Part/I-56215-080000028057e421.pdf>> accessed on 10 September 2023.

Q. Part XIII provides for matters relating to wreck and salvage. India has ratified 1989 Salvage Convention and therefore review committee has suggested that provisions of this Convention may be inserted amending Section 390, 398, 402 (1) and 404 but the same has not happened till now.

R. Part XIV of the Act gives powers to the Central Govt. for control of Indian ships and ships engaged in coasting trade. It provides for three kinds of licenses. Section 412 giving powers to fix shipping rates has already been abolished.³² Some relaxation have also been given under cabotage law.

S. Part XV contains the provisions for sailing vessels and part XVA for fishing boats, their registry, name, inspection, certification etc.

T. Part XVI imposes penalties for violation of the provisions of the Act and procedure thereof. It contains a chart mentioning the offence or provision violated and the punishment thereof.

U. Part XVII contains miscellaneous provisions for appointing examiners, powers of ship surveyor, inquiry into case of death on board the ships, Jurisdiction of Court (not below that of a Judicial Magistrate First Class).

V. Part XVIII provides for Repeal and Savings etc.

Ongoing Issues and Challenges: The Way Ahead

As is very much apparent, from the above description of the Act, the Act is very comprehensive and voluminous thereby creating its own unique challenges. With the major potential India sees in its maritime discourse attempt was to replace it with a new Act but same could not materialise³³ as closer scrutiny found that the issues involved are so intricate and detailed that its better to adopt an approach whereby each part is dealt with separately and any change required is made through an amendment for it.³⁴ So its a bits and pieces approach that the rule makers appear to be adopting as one can assume it with numerous Amendments being made in the recent past. Also the approach has been to make separate Acts for major topics which were otherwise not present in the 1958 Act as is very much clear from the 2022 Anti-Piracy Legislation. Given that in a globalised world international trade and commerce is behind major economic boom and supplier of basic necessity alike the maritime stakeholders need to agree to certain minimum standards for which organisations like IMO are of great service which help in multilateral discourses and attempt to bring the stake holders in sync with major standard procedures and practices and in the process help the world community tackle the challenges posed to mankind such as extinction of species, climate change, environmental pollution and degradation etc. Hence to give such major international conventions their due India needs to adopt them and given the issue of sovereignty and challenges of enforcements in international law, India needs to incorporate it in its domestic laws and it is submitted that the 2016 Bill attempted the same but that did not materialise.³⁵ Later the experts found that minor amendments can serve the purpose hence it can be assumed that much pondering is going on the same approach. But be that as it may the attempts are nevertheless continuous and we have for our inspection and comments the Draft 2020 Bill³⁶ which again needs serious analysis. The prudent approach is to always keep in mind the fact that due to colonial scars India despite having major prospects and potential has not received its due in the share of total tonnage world produces every year and that is because certain erstwhile colonial states still dominate the shipping industry be it the Insurance sector based in London or elsewhere. Indian government is working to change the same and has planned a long road-map to achieve its due.³⁷

Conclusion

In conclusion one can say that the Indian merchant shipping has gone for various changes since its inception. Though the Act is quite comprehensive but it lacks certain aspects very crucial to maritime activity. First and foremost is its total neglect of maritime security aspect which now with the passing of the Maritime Anti-Piracy Act, 2022 appears to have been taken care of but the same is not a part of 1958 Act technically though in effect it is. Although it deals with maritime safety quite elaborately. But maritime safety and security are not two identical terms. Even Maritime Security is a term which is very subjective. While some perceive maritime security in a narrow sense as measures for force-protection and defense against sabotage, others include actions to combat terrorism and illegal activities like piracy and trafficking. Some only limit it to the protection of territorial waters and sea lanes. Adopting an inclusive approach, in India maritime security is defined as comprising a collection of all the issues that pertain to the seas, and have a bearing on national security. These include seaborne trade and infrastructure for its pursuit, management of sea resources, environmental issues and employment of naval forces.³⁸ Considering that 97% of our trade is carried by sea, the civil maritime sector, defined by the Ministry of Surface Transport as encompassing port operations, the merchant fleet, the shipbuilding

³² The Merchant Shipping (Amendment) Act,(68 of 1993), s. 6 (w.e.f. 27-10-1993).

³³ The Merchant Shipping Bill, 2016 lapsed.

³⁴ This is author's personal understanding. For in depth understandings of the issues involved see, Parliament of India, Rajya Sabha, Department-Related Parliamentary Standing Committee on Transport, Tourism and Culture, *Two Hundred Forty Ninth Report: The Merchant Shipping Bill 2016* (18 July 2017) Available at <https://prsindia.org/files/bills_acts/bills_parliament/2016/SCR-%20Merchant%20Shipping%20Bill,%202016_0.pdf> accessed on 10 September 2023.

³⁵ See supra 8 at p101.

³⁶ Supra 13.

³⁷ Ministry of Ports, Shipping and Waterways, 'Maritime India Vision 2030' (2021) Available at<https://shipmin.gov.in/sites/default/files/MIV%202030%20Presentation_compressed_0.pdf> accessed on 10 September 2023.

³⁸ Admiral (Retd) Arun Prakash, 'Maritime Security Of India: Future Challenges', Nov. 26, 2013,<<http://www.idsa.in/keyspeeches/MaritimeSecurityOfIndiaFutureChallenges>> Last visited on 25 April 2017.

industry and trained human resources, is a vital component of maritime security. Three major aspects of the civil maritime sector addressed by the ministry of shipping in its prospective plans are ports, the shipping industry and shipbuilding.

Moreover the new maritime security strategy as available on Indian Navy website³⁹ talks about maritime security as per International Law and mentions United Nations Convention on the Law of the Sea (UNCLOS)⁴⁰ several times. It mentions the piracy, maritime terrorism, private armed force etc as major threat to maritime security. After the 26/11 attack on Mumbai⁴¹ the then government has entrusted the Indian Navy for all-round maritime security related activity. Enhanced patrolling and surveillance in coastal areas have since been undertaken by the State Marine Police (SMP), Customs, Coast Guard and the Navy Under its Coastal and off shore security strategy it mentions its Maritime Security Objective to protect Indian coastal and offshore assets against attack and threats emanating from sea. Hence the same might be said to cover Piracy, maritime terrorism and other similar illegal activities for the definition of which one can resort to the UNCLOS. But that is different from the Security challenges faced by shipping and for that the Maritime Anti-Piracy Act, 2022 seems promising.

To sum up, a safe, secure operation of shipping with ample job creation and significant economic contribution ensuring the welfare of the stakeholders alongwith clean and safe environment is all we need to focus on and same is being strived for through various legislation and international co-operation.

³⁹ 'Ensuring Secure Seas: Indian Maritime Security Strategy' available at <https://www.indiannavy.nic.in/sites/default/files/Indian_Maritime_Security_Strategy_Document_25Jan16.pdf> Last accessed at 26 April 2017.

⁴⁰ United Nations Convention on the Law of the Sea, 1982.

⁴¹ Shanthie Mariet D'Souza, 'Mumbai terrorist attacks of 2008' (Britannica 26-29 November 2008) available at <<https://www.britannica.com/event/Mumbai-terrorist-attacks-of-2008>> accessed on 1 February 2023.