



# **DISSERTATION**

**on**

## **Marine Insurance Laws of Bangladesh; a Comparative Study**

**Course Title: Supervised Dissertation**

**Course code: LAW 406**

**Submitted to:**

**Mohammed Shahjalal**

**Senior lecturer**

**Department of Law, East West University**

**Submitted by:**

**Sayma Sadia**

**ID. 2017-2-66-038**

**Date of submission: 11/01/2024**

**Word Count: 7,762 (Except References)**



Plot No-A/2, Main Road, Jahurul Islam City, Aftabnagar, Dhaka-1212, Bangladesh Tel: 09666775577 (Ext 421), E-mail: mehedihasan@ewubd.edu URL:<http://www.ewubd.edu>

---

### **Consent Form**

For completing Course 406, the Supervised Dissertation for the Bachelor of Laws programme, I, Sayma Sadia, will be turning in an essay titled " Marine Insurance Laws of Bangladesh; a Comparative Study" to Mohammed Shahjalal, a Senior Lecturer in the Department of Law.

.....

Signature of the Supervisor

Date:

## **Acknowledgment**

I am grateful to Mohammed Shahjalal who serves as my supervisor. The Law Department of East West University has appointed him to the position of Senior Lecturer. It has been a pleasure working with him, and I am grateful for his assistance. Throughout my investigation, he provided me with guidance and assistance. I am impressed by the hard work of my supervisor.

I would like to express my gratitude to the respected Chairperson, Dr. Nabaat Tasnima Mahbub for facilitating the research program with such discipline.

All the East West University academic members deserve my gratitude for their services. All praise is due to them.

Sayma Sadia

ID. 2017-2-66-038

Department of Law

## Declaration

The research paper's subtitle is "Marine Insurance Laws of Bangladesh; a Comparative Study". The authorship is ascribed to Sayma Sadia. The citation for this is 2017-2-66-038. Furthermore, I confirm that I have not submitted this work for consideration for any other credential or degree before and that it is completely unique and free of plagiarism. The citations of all sources utilised in this study are enclosed.

.....

Signature

Sayma Sadia

ID. 2017-2-66-038

Department of Law

East West University

## Table of contents

|                                                                                           |           |
|-------------------------------------------------------------------------------------------|-----------|
| <b>Acknowledgement.....</b>                                                               | <b>03</b> |
| <b>Declaration.....</b>                                                                   | <b>04</b> |
| <b>Abbreviations.....</b>                                                                 | <b>07</b> |
| <b>Abstract.....</b>                                                                      | <b>08</b> |
| <b>Chapter 1.....</b>                                                                     | <b>9</b>  |
| <b>Introduction.....</b>                                                                  | <b>9</b>  |
| <b>1.1 Background.....</b>                                                                | <b>9</b>  |
| <b>1.2 Research question.....</b>                                                         | <b>9</b>  |
| <b>1.3 Research justification.....</b>                                                    | <b>9</b>  |
| <b>1.4 Research Methodology.....</b>                                                      | <b>10</b> |
| <b>1.5 Literature review.....</b>                                                         | <b>10</b> |
| <b>1.6 Limitation of the study.....</b>                                                   | <b>10</b> |
| <b>1.7 Outline of the Chapter.....</b>                                                    | <b>11</b> |
| <b>Chapter 2.....</b>                                                                     | <b>12</b> |
| <b>Marine insurance policy and guidelines</b><br>.....                                    | <b>12</b> |
| <b>2.1 Introduction.....</b>                                                              | <b>12</b> |
| <b>2.2 Definition of Insurance.....</b>                                                   | <b>12</b> |
| <b>2.3 Definition of Marine Insurance.....</b>                                            | <b>13</b> |
| <b>2.4 Marine Insurance subject matter.....</b>                                           | <b>13</b> |
| <b>2.5 Categorization of Marine Insurance .....</b>                                       | <b>13</b> |
| <b>2.6 Indemnity agreement for mariners.....</b>                                          | <b>14</b> |
| <b>2.7 Principles governing marine</b><br><b>insurance.....</b>                           | <b>15</b> |
| <b>2.8 Policy Provisions the Indian Marine Insurance Act of</b><br><b>1963.....</b>       | <b>15</b> |
| <b>2.9 Coverage types for marines.....</b>                                                | <b>14</b> |
| <b>2.10 Non-applicability of Marine insurance.....</b>                                    | <b>15</b> |
| <b>2.11 Insureds with Marine Insurance.....</b>                                           | <b>15</b> |
| <b>2.12 Conclusion.....</b>                                                               | <b>15</b> |
| <b>Chapter 3.....</b>                                                                     | <b>16</b> |
| <b>Bangladesh and other jurisdictions insurance laws .....</b>                            | <b>16</b> |
| <b>3.1 Introduction.....</b>                                                              | <b>16</b> |
| <b>3.2 History of Bangladesh's Insurance System.....</b>                                  | <b>16</b> |
| <b>3.3 An overview of marine insurance's history.....</b>                                 | <b>16</b> |
| <b>3.3.1 The Lombard's.....</b>                                                           | <b>17</b> |
| <b>3.3.2 The Founder of Lloyd's Coffee House.....</b>                                     | <b>17</b> |
| <b>3.4 Early English Marine insurance .....</b>                                           | <b>17</b> |
| <b>3.5 History of marine insurance in Bangladesh.....</b>                                 | <b>18</b> |
| <b>3.6 Insure against risk.....</b>                                                       | <b>18</b> |
| <b>3.7 Interaction between Marine Insurance Act 1906 and Insurance Act, 2010</b><br>..... | <b>19</b> |

|                                                  |                                                            |    |
|--------------------------------------------------|------------------------------------------------------------|----|
| 3.8                                              | Essentials of Marine Insurance.....                        | 19 |
| 3.9                                              | Conclusion.....                                            | 20 |
| Chapter 4.....                                   |                                                            | 21 |
| Analysis of legal and institutional systems..... |                                                            | 21 |
| 4.1                                              | Introduction.....                                          | 21 |
| 4.2                                              | Marine Insurance Act 1906.....                             | 21 |
| 4.3                                              | Bangladeshi Regulations and Laws.....                      | 22 |
| 4.4                                              | Admiralty Court Act, 2000.....                             | 22 |
| 4.5                                              | The current Bangladeshi Insurance industry.....            | 23 |
| 4.6                                              | Court for maritime or admiralty.....                       | 24 |
| 4.7                                              | Laws Governing Maritime Activities in Bangladesh.....      | 24 |
| 4.8                                              | Relevant cases.....                                        | 25 |
| 4.9                                              | Marine Insurance Problems and Loopholes of Bangladesh..... | 27 |
| 4.10                                             | Conclusion.....                                            | 27 |
| Chapter 5.....                                   |                                                            | 28 |
| Concluding                                       |                                                            |    |
| Remarks.....                                     |                                                            | 28 |
| 5.1                                              | Findings.....                                              | 28 |
| 5.2                                              | Recommendations.....                                       | 28 |
| 5.3                                              | Conclusion.....                                            | 29 |
| Bibliography.....                                |                                                            | 30 |

## Abbreviations

|                    |                                                                     |
|--------------------|---------------------------------------------------------------------|
| <b>HC</b>          | <b>High Court</b>                                                   |
| <b>VS</b>          | <b>Versus</b>                                                       |
| <b>UN</b>          | <b>United Nation</b>                                                |
| <b>EU</b>          | <b>European Union</b>                                               |
| <b>CPC</b>         | <b>Code of Civil Procedure</b>                                      |
| <b>BLD</b>         | <b>Bangladesh Legal Decisions</b>                                   |
| <b>DLR</b>         | <b>Dhaka Law Reports</b>                                            |
| <b>BIWTC</b>       | <b>Bangladesh Inland Water Transport Corporation</b>                |
| <b>MIA</b>         | <b>Marine Insurance Act</b>                                         |
| <b>PPI</b>         | <b>Policy Proof of Interest</b>                                     |
| <b>S.G. Policy</b> | <b>Ships and Goods Policy</b>                                       |
| <b>COL</b>         | <b>Corporation of Lloyd's</b>                                       |
| <b>ILU</b>         | <b>Institute of London Underwriters</b>                             |
| <b>IMO</b>         | <b>International Maritime Organization</b>                          |
| <b>UNCLOS</b>      | <b>United Nations Convention on the Law of the Sea</b>              |
| <b>IDRA</b>        | <b>Insurance Development and Regulatory Authority of Bangladesh</b> |

## **Abstract**

Bangladeshi maritime insurance law evaluation. We'll explore industry operations, courts, and laws. After discussing maritime insurance and interpretive notions, this study examines Bangladesh's historical and legal setting and argues that it employs English law because it lacks a legal framework. Examining the 1906 maritime Insurance Act, 2010 Insurance Act, and 2000 Admiralty Court Act, this paper seeks to develop maritime insurance in Bangladesh. Triumphant cases like Eagle Star Insurance Company Limited vs. Rahmania Trading Co. suggest English maritime insurance laws may govern admiralty insurance. Bangladeshi maritime insurance is successful yet has inaccurate policies and insufficient coverage. Finally, the research illuminates marine insurance in Bangladesh. Guidance, precedents, Admiralty Court Act revisions, education, and laws are suggested. In this dissertation, the Insurance Act, 2010 and the Marine Insurance Act, 1906 are examined for pros, cons, gaps, and the necessity for proactive and contextual implementation to stay up with the ever-changing legal landscape.



# **Chapter One**

## **Introduction**

### **1.1 Background**

Bangladeshi maritime insurance legislation. We will also analyse industry practices, judicial opinions, and laws. After reviewing maritime insurance and interpretative principles, this study discusses Bangladesh's historical and legal environment and how it employs English law without a legal framework. To construct marine insurance in Bangladesh, this paper investigates the 1906 maritime Insurance Act, 2010 Insurance Act, and 2000 Admiralty Court Act.

The application of ideas from English marine insurance to admiralty insurance has been established by judicial pronouncements and seminal instances. There has been some progress in Bangladesh's marine insurance business, but problems with ambiguous policies and inadequate coverage persist.

The dissertation finishes with important results about Bangladeshi maritime insurance. The paper suggests new regulations, educational initiatives, precedents, and revisions to the Admiralty Court Act. To stay abreast of the constantly evolving legal environment. This dissertation examines the 1906 Marine Insurance Act and 2010 Insurance Act. The pros, cons, gaps, and necessity for proactive and contextual application of legislation are examined.

### **1.2 Research question**

How effective are these laws and how adequate are the current Marine Insurance regulations?

### **1.3 Research Justification**

Marine insurance laws and regulations in Bangladesh and their impact on economic growth are examined in this dissertation. Bangladesh's maritime insurance regulations' effectiveness in promoting equitable resolutions is examined in this study. This study analyses real-life cases and global practices to inform legal scholars, practitioners, and policymakers. Redesigning Bangladesh's marine insurance rules for clarity, consistency, and equity is part of a global insurance reform.

## **1.4 Research Methodology**

A systematic analysis of the data was done using theoretical frameworks. This is why the research will follow procedures. For my dissertation, I relied on qualitative approaches. Although it employs qualitative methodologies, this study finds analytical errors through historical analysis. These include books, journals, review abstracts, papers, statutes, and court decisions. This research paper cites OSCOLA.

## **1.5 Literature review**

Bangladeshi government official Alam says the country's international trade and shipping industry cannot be risked. Trade sustains ship demand because they are derived desires. Safeguarding Bangladesh's fleet shouldn't hurt trade. A country's flag can be protected by more than an aircraft carrier. There are many innovative and useful ways to protect kids. The ordinance must be evaluated and revised immediately to meet maritime international trade demands. Rewriting the Ordinance will help the Bangladeshi fleet operate in the Americas and Europe more effectively and safely.

The book has several parts and appendices, according to Hasan (2016). No explanation or case study is in this book. Following maritime law was the author's only topic. He mischapters his marine law enactments.

Based on Muhammad Farhad Hosen (2019), this document outlines Bangladesh's sea rules. This exhaustive study seeks to clarify Bangladesh's maritime territory's legal status and protections. Fewer than 2% of the 1,350 state statutes address maritime issues. By decade's end, the International Tribunal for the Law of the Sea had mediated massive disputes between her and her two neighbours. Investors are hesitant to invest here due to legal issues. The research will determine Bangladesh's marine issue's legal status.

## **1.6 Limitation of the study**

Some limitations exist in the results of my investigation. With additional time, things could have turned out better. By the year's end of 2023, strikes and blockades had reached Bangladesh. I found very few publications concerning marine insurance in Bangladesh while doing my investigation. Research is conducted with great care due to the small amount of studies and papers. Citations are made to offer context, including articles, laws, organisations, and journals.

## **1.7 Outline of the Chapter**

This study's objective, relevance, and context are explained in Chapter 1. Chapter 2 addresses interpretation, subject matter, definitions, liabilities, contracts, and apps. History and status of UK, Bangladesh, and India maritime insurance regulations are covered in Chapter 3. As marine insurance legislation is implemented, Chapter 4 examines policy interpretation and equity. Also examined are the Insurance Act of 2010, Admiralty Court Act of 2000, and Marine Insurance Act of 1906. Chapter 5 reviews the study's findings, offers legislative adjustments, and discusses the dissertation's legal scholarship, future research, and limits.

## Chapter two

### Marine insurance policy and guidelines

#### 2.1 Introduction

Marine insurance, indemnity, and good faith will be covered in this chapter. Additionally, the policy covers marine liability, cargo, and hull insurance. We'll discuss maritime insurance, contracts, and policies later.

#### 2.2 Definition of Insurance

An insurance contract requires two or more parties to pay a premium in exchange for risk sharing. The contract offers to pay the other party a predetermined amount in the event of a loss (such as death), after a certain time (in life insurance), or to indemnify (in general insurance). Nouns insurer and policyholder describe the same thing. A person or organisation is an insurer in Bangladesh if they enter into insurance contracts, conduct business, are domiciled there, or form a company to generate insurance business. Insurance companies and subsidiaries were governed by Bangladeshi law. Active insurance policyholders, including Loyed's society members, can sign and deliver cover notes and protection notes as underwriters.<sup>1</sup>

#### 2.3 Definition of Marine Insurance

An indemnification agreement between marine businesses is called "marine insurance". This policy protects goods in transit from loss or damage regardless of destination. It started when parties started shipping goods by sea. It applies to all transportation regardless of name.<sup>2</sup> Marine insurance protects against water hazards. Marine hazards like rock collisions, enemy attacks, fires, pirate captures, and non-payment of goods can damage, destroy, or disappear ships and cargo.<sup>3</sup> This is why marine insurance covers ships, cargo, and freight. Fire

---

<sup>1</sup> Section 2 (25) of the Insurance act, 2010, "Problems and Prospects of Insurance in Bangladesh" (*Problems and prospects of Insurance in Bangladesh*) <<https://forum.daffodilvarsity.edu.bd/index.php?topic=1409.0>> accessed November 13<sup>th</sup>, 2023 "Insurance Definition | Legal Glossary | LexisNexis" (*Insurance Definition | Legal Glossary | LexisNexis*) <<https://www.lexisnexis.co.uk/legal/glossary/insurance>> accessed November 13<sup>th</sup>, 2023

<sup>2</sup> "Marine Insurance | Meaning, Types, Benefits & Coverage" (*Marine Insurance | Meaning, Types, Benefits & Coverage*) <<https://www.dripcapital.com/resources/blog/marine-insurance-meaning-types-benefits>> accessed November 15<sup>th</sup>, 2023

<sup>3</sup> Ibid and Rose FD, "CHAPTER 2 THE SUBJECT MATTER OF INSURANCE" (*CHAPTER 2 THE SUBJECT MATTER OF INSURANCE*) <<https://www.i-law.com/ilaw/doc/view.htm?id=130878>> accessed November 16<sup>th</sup>, 2023

insurance covers war, unrest, and riots' financial costs. The insurer and insured must share all relevant information in maritime insurance.<sup>4</sup>

#### **2.4 Marine insurance subject matter**

Insurance covers everything lost on the high seas. Marine insurance covers different things than general insurance. Insurance companies will cover inland risks if they involve water. The insured must be able to incur maritime losses for the insurance policy to cover them.<sup>5</sup>

#### **2.5 Categorization of marine insurance**

Marine insurance covers legal maritime adventures and water risks. Boat and plane hull insurance protects the owner's investment by covering repairs and replacements. When properly administered, maritime cargo insurance offers cost benefits while protecting products in transit over air, land, or sea. If goods are damaged in transit, goods insurance covers the shipowner's costs and the products. Marine liability insurance protects shipowners from financial ruin in collisions that damage other ships or their cargo. This comprehensive classification covers many nautical activities, protecting owners and stakeholders from financial losses and unexpected disasters.<sup>6</sup>

#### **2.6 Indemnity agreement for mariners**

Insurance companies cover maritime policy losses based on contract interpretation. An insurance company must protect its policyholders from land-based losses, including maritime adventures. Trade or marine insurance covers land losses. The policy refers to the marine insurance document, while the covering note describes the slip. It is acceptable to use either "interest insured" or "premium" when referring to the insured subject matter and premium. You can't mix underwriters and insureds. Insurance cannot function without underwriters and insurers. Any damage or injury that results from a loss is likewise considered a "loss" when it is accompanied by real loss. Some maritime risks include: fire, sea, war, rovers, thieves, captives, seizures, detentions, restraints, and prince and person arrests.<sup>7</sup>

---

<sup>4</sup> Kuchhal, M C, *Mercantile Law*, 6th Edition, Vikas Publishing House PVT LTD, New Delhi, 2007, p. 58

<sup>5</sup> Ibid

<sup>6</sup> Chaudhuri, Azizul Haq, *Risk & Insurance*, 2<sup>nd</sup> Edition, Brothers' Publications, Dhaka, 2008, p. 62.

<sup>7</sup> MUSJAB I, "Perils of the Seas v Perils on the Seas" (*Perils of the seas v Perils on the seas*, December 14, 2023) <<https://ahliasuransi.com/perils-of-the-seas-v-perils-on-the-seas/>> accessed November 18<sup>th</sup>, 2023

## 2.7 Principles governing marine insurance

Five fundamental principles, based on a few core beliefs, govern marine contract boat insurance. This Principle's use of "utmost good faith" raises the bar for both sides' candour, promoting complete negotiations and open communication.<sup>8</sup> The insured must fear a financial loss to be covered by the Principle of Insurable Interest. Policyholders include ship owners, cargo owners, lenders with a stake in insured properties, and insurance companies. Importantly, under indemnification, an insurer is only liable for the actual loss. To receive reimbursement, the insured must prove that an insured peril was the main cause of the loss and that it was stated in the policy. Marine insurance contracts allow the insurer to subrogate third parties for covered losses. This means the insurer can sue the insured. Thus, maritime insurance contracts uphold indemnity.<sup>9</sup>

## 2.8 Policy provisions in the Indian Marine Insurance Act of 1963

Under Section 24<sup>10</sup> under the Marine Insurance Act of 1963, a contract is required to be issued for an insurance policy to be valid. This Act prohibits court admissibility of marine insurance contracts without corresponding marine policies. You can implement a policy immediately or later after signing a contract. The Marine Insurance Act, 1963 requires marine insurance policies to list the insured or the person authorised to make changes. The policy covers the subject and loss risk. Insurance companies cover trips for a set time to protect customers. Insurance and policy amounts are inversely related. You must know which insurers are involved in the claim.<sup>11</sup>

## 2.9 Coverage types for marines

Marine insurance offers many coverage options to meet maritime operations' unique needs. Journey-specific voyage policies hold the policyholder liable from the start of the voyage.<sup>12</sup> Time policies give the ship some leeway in determining its course, but a "continuation

---

<sup>8</sup> "Fundamental 5 Principles of Marine Insurance - Bajaj Allianz" (*Bajaj Allianz*, March 31, 2021) <<https://www.bajajallianz.com/blog/knowledgebytes/principles-of-marine-insurance.html>> accessed November 19<sup>th</sup>, 2023

<sup>9</sup> Ibid

<sup>10</sup> Section 24 of the Marine Insurance Act, 1963

<sup>11</sup> Section 25 of the Marine Insurance Act, 1963

<sup>12</sup> Govindasamy R, "Marine Insurance - Voyage Policy" (*DieselShip*, April 13, 2018) <<https://dieselship.com/uncategorized/various-types-of-marine-insurance-policy/>> accessed November 20<sup>th</sup>, 2023

clause" guarantees coverage if the voyage exceeds the allotted duration.<sup>13</sup> The mixed policy combines trip and time policies to cover a voyage and term. An insured's valuables are defined by a valued insurance policy. Claims submission is when an open or unvalued policy's true worth becomes apparent. The floating plans are advantageous for regular marine traders because they display the insurance amount regardless of the ship's specifications.<sup>14</sup> Marine insurance underwriters can forgo insurable interest through a wagered or honoured policy, called a Policy Proof of Interest.<sup>15</sup>

## 2.10 Non applicability of Marine insurance

In prehistoric times, people hunted large elk in groups to avoid being gored or sent goods in several caravans to deter raiding tribes. Marine insurance was essential for trade expansion during the Age of Sail due to maritime trade's inherent risks. Thus, marine risk sharing structures became more complex. Underwriters assess risk based on ship history, current state, and location, as well as merchants and captains, to set premiums.<sup>16</sup>

## 2.11 Insureds with Marine Insurance

Both the ship's owner and cargo owner have an insurable stake in the vessel, so they must protect their interests. Insurable interests can reimburse ship guarantee creditors. All ship, train, and plane crew members are personally responsible for their salaries, as it's part of their jobs.<sup>17</sup>

## 2.12 Conclusion

This chapter will establish the groundwork for a full review of Bangladeshi marine insurance regulations in the future chapter. This chapter defines absolute good faith and indemnification, describes maritime insurance, and discusses its types.

---

<sup>13</sup> Stewart vs. New Zealand, (1912) 16 C.W.N. 991, 996

<sup>14</sup> Floating Policy by Ship or Ships. | Marine Insurance Act 1906 (c. 41) | Better Regulation” (29. *Floating policy by ship or ships. | Marine Insurance Act 1906 (c. 41) | Better Regulation*) <<https://service.betterregulation.com/document/182068>> accessed November 21<sup>th</sup>, 2023

<sup>15</sup> “Definition of WAGER POLICY” (*Wager policy Definition & Meaning - Merriam-Webster*) <<https://www.merriam-webster.com/dictionary/wager+policy>> accessed November 22<sup>th</sup>, 2023

<sup>16</sup> Corp JI, “What Is Not Covered by Marine Insurance? - JMG” (*JMG*, March 21, 2022) <<https://jmg.com/what-is-not-covered-by-marine-insurance/>> accessed November 22<sup>th</sup>, 2023

<sup>17</sup> Securenow Insuopedia, “Insurable Interest in Marine Policies” (*SecureNow*, April 9, 2017) <<https://securenow.in/insuopedia/what-is-insurable-interest-marine-policies/>> accessed November 22<sup>th</sup>, 2023

## **Chapter Three**

### **Bangladesh and other jurisdiction's insurance laws**

#### **3.1 Introduction**

This chapter covers marine insurance, the insurance statute, the Lombards, Lloyd's founder, and Lloyd's Coffee House, a maritime icon. This chapter discusses Bangladeshi maritime insurance history, risk mitigation, and key features.

#### **3.2 History of Bangladesh's Insurance System**

The insurance laws in Bangladesh are somewhat outdated. A number of insurance companies in the Bangla or Indian Subcontinent region started providing life and general insurance for their customers around a century ago. Between the years 1947 and 1971, East Pakistan was home to 49 different insurance companies. Following the country's attainment of independence in 1971, the 1938 Act was replaced by the Insurance Act 1973, and in 2010, a new act was enacted to bring it into the current day.<sup>18</sup>

#### **3.3 An overview of marine insurance's history**

An early strategy with a long track record of success is loss prevention. Loans and mutual guarantees were employed by the Phoenicians, Greeks, and Romans in their fight against maritime dangers. There were 'Bottomry' loans in antiquity. The lender stands to lose money in the event of the ship's failure because, according to the loan definition, they are responsible for the hull and bottom. If the ship makes a safe arrival, the lender will get the premium as repayment for the loan. Because it was straightforward and did not involve usury penalties, Bottomry's marine insurance system was one of the first and most widely used. The most well-known and long-standing marine insurance was Bottomry. The origins of Bottomry marine insurance.<sup>19</sup>

---

<sup>18</sup> "Insurance - Banglapedia" (*Insurance - Banglapedia*) <<https://en.banglapedia.org/index.php/Insurance>> accessed November 24<sup>th</sup>, 2023

<sup>19</sup> Paul, Nirmal Chandra, *Laws on Insurance*, 4th Edition, Shams Publication, Dhaka, February 2021, p. 101



### **3.3.1 The Lombard's**

Europe offers many marine insurance policies. Hanseatic merchants from Bruges, northern Europe, founded the 'Chamber of Insurance' in 1432. German colonists used Hanseatic Sea merchants' marine insurance. The Greeks and Phoenicians may have been early maritime insurers, but a Roman decree from 533 AD documented the practice. London underwriters offered most marine insurance during Justinian's reign due to low competition. The Lombards, another immigrant group, competed on Lombard Street. Marine insurance began with bottomry loans. The English took over international trade after the Lombards left. They established appropriate regulations and standards to make marine insurance acceptable to all.<sup>20</sup>

### **3.3.2 The Founder of Lloyd's Coffee House**

It was common practice for bankers, moneylenders, and hobbyists to hold underwriting sessions in private residences prior to 1666. As a result, underwriting services were offered by an increasing number of coffee shops. A few years down the road, they started getting primarily business visitors. Mr. Bowman constructed the inaugural coffee shop in London in 1652 in St. Michael's Alley, Cornhill. Lombard became the new home of Lloyd Coffee House in 1691 or 1692. Since the proprietor of the weekly publication Lloyd's News covered business and nautical news, the port also became an important hub for shipping companies. In 1771, a committee was created to collect subscriptions and function as agents of the underwriters. When the Lloyd's Act, which created a legally protected organisation, was passed in 1871, the first underwriters took over the market's structure.<sup>21</sup>

### **3.4 Early English maritime insurance**

New maritime insurance began in the 17th century. Before local companies took over, foreigners ruled maritime insurance. Parliament's first act, the Elizabethan Act of 1601, distinguishes the periods. The first maritime insurance law was "An Act Concerning Assurance Amongst Merchants". This statute established the Insurance Court. The Court could not expand due to common law court and company opposition.<sup>22</sup>

---

<sup>20</sup> Ibid

<sup>21</sup> Paul, Nirmal Chandra, *Laws on Insurance*, 4<sup>th</sup> Edition, Shams Publication, Dhaka, 2021, p. 29

<sup>22</sup> Morris GD, Company AI and Team RE, "A Brief History of Marine Insurance - Risk & Insurance" (*Risk & Insurance*, March 6, 2018) <<https://riskandinsurance.com/brief-history-marine-insurance/>> accessed November 27<sup>th</sup>, 2023

### 3.5 History of marine insurance in Bangladesh

The 17th century marked the beginning of a new era for marine insurance. Until local companies started to fill the void, foreigners had a stranglehold on the marine insurance industry. There is a clear demarcation between the two periods in Parliament's first act, the Elizabethan Act of 1601. The initial statute governing marine insurance in the nation was titled "An Act Concerning Assurance Amongst Merchants. The Insurance Court was also created because of this act. As a result of the lack of backing from common law courts and businesses, the Court was unable to expand its role.<sup>23</sup>

Marine insurance in Bangladesh began under British rule. The British East India Company brought marine insurance to India. Chittagong and Mongla have handled marine trade since Bangladesh's 1971 independence. Globalisation and business have made marine insurance essential. Marine operations are dynamic, changing marine insurance. IDRA oversees Bangladesh's insurance market.<sup>24</sup>

### 3.6 Insure against risk

Marine insurance helped Northern Italians manage risk in the Middle Ages. Two parties have insurance contracts. National economic progress depends on insurance. Insurance aids economic growth by encouraging resource production, usage, and mobilisation. The pool average risk determines the premium. It provides financial compensation in the event of property loss or destruction, provided that certain conditions are met. Through the payment of premiums, insurance protects individuals and organisations against unexpected financial losses. Due to its distinct advantages as a mechanism for reducing risk, insurance should have its public benefit extended. The insurance sector has grown at an astounding rate on a global scale.<sup>25</sup>

---

<sup>23</sup> UNCTAD, 'Legal and documentary aspects of the marine insurance contract' (*UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, November, 1978*) <[https://unctad.org/system/files/official-document/tdbc4ISL27Rev.1\\_en.pdf](https://unctad.org/system/files/official-document/tdbc4ISL27Rev.1_en.pdf)> accessed November 28<sup>th</sup>, 2023, Hasan, S.M Mohiuddin, Admiralty and Maritime Laws of Bangladesh, 6th Edition, Shams Publication, Dhaka, 2016, p. 289.

<sup>24</sup> Ridge J, "TO STAND AGAINST THE COMPANY: A STUDY OF THE BRITISH HONOURABLE EAST INDIA COMPANY AND PIRACY IN THE INDIAN OCEAN WORLD, CIRCA 1680-1760" (*Murray State's Digital Commons*, 2017) <<https://digitalcommons.murraystate.edu/cgi/viewcontent.cgi?article=1017&context=etd>> accessed November 29<sup>th</sup>, 2023

<sup>25</sup> "Insurance - Risk Management, Underwriting, Reinsurance" (*Encyclopedia Britannica*) <<https://www.britannica.com/money/topic/insurance>> accessed November 29<sup>th</sup>, 2023

### **3.7 Interaction between Marine Insurance Act 1906 and Insurance Act 2010:**

The Oriental Life Insurance Company, the Bombay Life Insurance Company, and the Madras Equitable Life Insurance Society were all founded in Calcutta between 1818 and 1829. Triton Insurance Company Ltd. was founded in 1850 by a group of British citizens and was the first general insurer in Kolkata. The principal law regulating life insurance in Bangladesh was the Bangladesh Life Assurance Companies Act, 1912. Due to its relative youth, non-life insurance was exempt from regulation under the Act of 1912. Two separate legal systems, each with its own particular focus, govern insurance in Bangladesh. Although all three forms of insurance—life, general, and marine indeed are covered by the Insurance Act of 2010, the 1906 Marine Insurance Act primarily addresses maritime insurance. The activities are distinct from one another, yet they rely on each other.<sup>26</sup>

Marine insurance can also make use of more traditional insurance concepts like disclosure, warranties, and double insurance. An analogous provision in the Insurance Act is based on the concepts offered in the Marine Insurance Act. The interpretation and application of similar sections in the broader Insurance Act, 2010 may also be influenced by maritime insurance judgements and precedents. Although each legislation has its own specific purview, there may be common ground across them that clarifies and streamlines Bangladesh's insurance regulatory framework.<sup>27</sup>

### **3.8 Essentials of Marine Insurance**

According to the indemnification concept, the policyholder of a marine insurance policy is entitled to financial compensation in the event of any damages. To safeguard the guaranteed against potential financial loss in the event of an accident while at sea, this contract type was created. No one in the 17th and 18th centuries could have predicted the length, calibre of the crew, or hazards of a war. The likelihood of ships being deliberately destroyed or lost is reflected in this risk when premiums are calculated. Reputable insurers would often charge merchants high rates as a risk mitigation strategy.<sup>28</sup>

---

<sup>26</sup> Paul, Nirmal Chandra, *Laws on Insurance*, 4<sup>th</sup> Edition, Shams Publication, Dhaka, February 2021, p. 97

<sup>27</sup> *ibid* 101 and 110, “Insurance Laws in Bangladesh” (Insurance laws in Bangladesh) <<https://www.linkedin.com/pulse/insurance-laws-bangladesh-bdlex-manupatra>> accessed November 30th, 2023

<sup>28</sup> Mishra A and Agarwal A, “Marine Insurance and Its Legal Aspects in India: Perils of the Sea” Volume 1 International Journal of Law and Legal Jurisprudence Studies <[https://ijlljs.in/wp-content/uploads/2014/12/Short\\_Article\\_Marine\\_insurance\\_and\\_its\\_legal\\_aspects\\_in\\_Indi-1.pdf](https://ijlljs.in/wp-content/uploads/2014/12/Short_Article_Marine_insurance_and_its_legal_aspects_in_Indi-1.pdf)> accessed December 10<sup>th</sup>, 2023

The policy and slip that make up a marine insurance plan are concerned with the interest insured and the premium. The party being insured, often known as the assured, pays the underwriter for the policy. The term "loss" is used to describe real damage caused by marine dangers. Buyers of insurance should think about their financial soundness because underwriters may not take on big risks.<sup>29</sup>

### **3.9 Conclusion**

This chapter sums up the policy and slip that make up a marine insurance plan are concerned with the interest insured and the premium. The party being insured, often known as the assured, pays the underwriter for the policy. The term "loss" is used to describe real damage caused by marine dangers. Buyers of insurance should think about their financial soundness because underwriters may not take on big risks.

---

<sup>29</sup> Ahuja K, "Marine Insurance" (*DOC Marine Insurance | Kanika Ahuja - Academia.edu*) <[https://www.academia.edu/16064979/Marine\\_Insurance](https://www.academia.edu/16064979/Marine_Insurance)> accessed December 10<sup>th</sup>, 2023

## Chapter 4

### Analysis of legal and institutional systems

#### 4.1 Introduction

Chapter 4 will be used to describe the impact of the Insurance Act of 2010, which will be evaluated in this chapter. To make these laws better, it is essential to identify areas for change. The relationship between these laws is also explained in this chapter. In this paper, we will examine several problems and ambiguities that are present in these regulations. The identification of possible unfairness is necessary to make the rules more equitable, and the analysis of problems is designed to further strengthen procedures.

#### 4.2 Marine Insurance Act 1906

Bangladeshi marine insurance is influenced by the United Kingdom's Marine Insurance Act of 1906. There are regulations in place for marine insurance throughout the entirety of its operations in international trade and commerce. The Institute of London Underwriters (ILU) is responsible for the creation of Incoterms, which are provisions that augment the Bangladesh Marine Insurance Act. Since Bangladesh does not have a statute governing marine insurance, the courts have relied on provisions from the United Kingdom Act to regulate essential aspects of marine insurance. Insurance interest, value, disclosure of information, double insurance, warranties, travel, and additional conditions are some of the topics that are discussed. Policy assignment, premiums, loss and abandonment, indemnity, insurer payouts, and premium return measurement are all significant parts of the United Kingdom Act regarding insurance compensation. In addition to providing legal guidance in maritime insurance claims, the Admiralty Court Act of 2000 is significantly appreciated for its other functions. Because Bangladesh does not have any legislation pertaining to maritime insurance, this comprehensive adoption of the United Kingdom's Maritime Insurance Act places an emphasis on marine insurance concepts.<sup>30</sup>

---

<sup>30</sup> “Marine Insurance” (Lexology) <<https://www.lexology.com/library/detail.aspx?g=134ebe57-ed8a-44ce-881f-349b7ea13acf>> accessed December 11th, 2023, “Marine Insurance Act 1906” (Marine Insurance Act 1906) <<https://www.legislation.gov.uk/ukpga/Edw7/6/41>> accessed December 15th, 2023

### 4.3 Bangladeshi Regulations and Laws

Numerous treaties, agreements, and regulations address crimes, disputes, and difficulties in the maritime domain. The coast guards and naval forces of countries who have signed IMO accords are able to put them into effect. There are 167 nations that have ratified UNCLOS. Several maritime treaties have been signed by Bangladesh. For example, all the admiralty laws in Bangladesh are regulated under the country's Admiralty Act of 2000. Admiralty and maritime law were codified in the 1840 Law of the Admiralty Courts. Shortly after, in 1891, The Courts of Admiralty Act and Rules. Any case involving the admiralty courts must adhere to the provisions of the Admiralty Courts Act of 2000.<sup>31</sup>

The jurisdiction to act in personam and in rem for ships and aircraft is conferred upon the High Court Division of the Supreme Court of Bangladesh under admiralty legislation. As outlined in the Code of Civil Procedure, 1908, one can initiate a lawsuit by submitting a formal complaint. The maximum court charge will be one hundred thousand Taka under Section 7 of the Admiralty Act 2000, which applies in cases where salaries received onboard are not claimed. Notification must be sent to the Director-General by the ship's owner or master no later than three days following the incident or damage to the vessel, together with any relevant details. Ships flying foreign flags are required to report accidents occurring in Bangladeshi seas to the Director-General within twenty-four hours. Ships that are discovered to be damaged or involved in accidents may be detained and fined fifty thousand takas. The High Court Division of the Supreme Court of Bangladesh has the power to attach a caveat to the party and seize their property if a verdict is effectively executed. If a court has made a decision about the sale of personal property, the next step would be to pursue a civil lawsuit. The authority to implement arbitration awards and foreign rulings for Bangladesh lies with the High Court of Bangladesh.<sup>32</sup>

### 4.4 Admiralty Court Act, 2000

Supreme Court of Bangladesh The admiralty cases are initially heard by the High Court Division of the Supreme Court. The following statute, under Section 3, transforms the High

---

<sup>31</sup> “Convention on the International Maritime Organization” (International Maritime Organization) <<https://www.imo.org/en/About/Conventions/Pages/Convention-on-the-International-Maritime-Organization.aspx>> accessed December 16th, 2023 “Maritime Laws of Bangladesh” (*Maritime Laws of Bangladesh*) <<https://www.linkedin.com/pulse/maritime-laws-bangladesh-bdlex-manupatra>> accessed December 16<sup>th</sup>, 2023

<sup>32</sup> Mardiah Chowdhury A, “Legal Articles” (HG Legal Resources) <<https://www.hg.org/legal-articles/maritime-laws-and-regulations-in-bangladeshi-context-64291>> accessed December 16th, 2023

Court Division into a Court of Admiralty. Shares, titles, and ownership documents including ship operating certificates, registration certificates, and logbooks are subject to judicial inspection. Disputes like these might arise around things like ship ownership, employment, and revenue. "Salvage" is defined as any demand for the return of ships, cargo, property, or anything else on board, regardless of whether they are at sea or ashore, according to Section 12 of the 1960 Civil Aviation Ordinance. Admiralty appeals can only be heard by a single judge, as stated in Section 8. A bench consisting of two or more justices may be appointed by the Chief Justice when proceedings under this Act commence. The Court of Admiralty Acts of 1840 and 1861 are included into the Admiralty Court Act of 2000 by Section 12.<sup>33</sup>

#### **4.5 The current Bangladeshi insurance industry**

Christian missionaries founded mutual funds in India in the late 1800s. Insurance in Bangladesh is rising with the economy. In the 1980s, private insurers were established through privatization. Results included more premium earnings, more competition, better services, and the emergence of new types of businesses. Nineteen general insurance companies and ten life insurance companies were granted private licenses by the government. General and life insurance are offered by most insurers, whereas Sadharan Bima Corporation offers crop and export credit guarantee insurance, among others. Insurance is highly promoted in Bangladesh by a wide variety of institutions, associations, and professional groups. There are thirty-one members of the Bangladesh Insurance Association as of May 25, 1988. Groups work to protect and further the interests of their members. The insurance industry in Bangladesh is largely dominated by surveyors and agents. In Bangladesh, you can find 62% of the insurance companies. Out of the 57 private enterprises, 2 are owned by the state and 1 is a foreign company. Assuring businesses are regulated by the Ministry of Commerce. One hundred and forty-four general insurers operate in Bangladesh. The introduction of additional private firms is imminent. When compared to rivals, the country's

---

<sup>33</sup> Partners CL and barristerhafizkhan@gmail.com, "Maritime and Admiralty Laws Practice in CLP Part-2 | Counsellaw.Com (CLP)" (*counsellaw.com (CLP)*, September 17, 2019) <<https://www.counsellaw.com/maritime-and-admiralty-laws-practice-in-clp-part-2/>> accessed December 17<sup>th</sup>, 2023, Section 3 of the Admiralty Court Act 2000, Mardiah Chowdhury A, "Legal Articles" (*HG Legal Resources*) <<https://www.hg.org/legal-articles/maritime-laws-and-regulations-in-bangladeshi-context-64291>> accessed December 16<sup>th</sup>, 2023

premium income and market penetration are lower. While 4.5% of Pakistanis and 7.5% of Indians had health insurance in 2010, just 1.5% of Bangladeshis did.<sup>34</sup>

#### **4.6 Court for maritime or admiralty**

Cases involving admiralty are traditionally heard by the High Court Division of Bangladesh's Supreme Court. This law must be followed by ships anchoring in ports of Bangladesh. It is dealt with by Bangladesh's Admiralty Court. Topics covered include ship details, mortgages, and co-owners inquiring about ownership stakes. Claims filed by victims of ship accidents are heard in court. It deals with matters related to ship carrying, usage, and damage or loss as well. Ships and their cargo are rescued, towing claims are settled, and products and ships that are docked or condemned are handled by it. The High Court Division (HCD) has first-instance jurisdiction according to the Admiralty Court Act, 2000. All powers conferred by other statutes and the Constitution are vested in the High Court Division of Bangladesh, as stated in Article 101 of the Bangladeshi Constitution. Because of its unique legislative authority, the High Court Division (HCD) would preside over Admiralty actions brought under the Act.<sup>35</sup>

#### **4.7 Laws governing maritime activities in Bangladesh**

All systems of law need to take maritime law into account. Maritime rules impact global issues, despite their domestic nature. International treaties, civil law, public international law, business law, and domestic statutes form its basis. All countries require some sort of marine regulating system. Formerly, Bangladesh was a country that relied on its maritime trade. Ten percent of its commerce takes place at sea. In terms of maritime law, Bangladesh is severely lacking. Many regulations govern this domain. Merchant Shipping Ordinance 1983, Marine Fisheries Ordinance 1983, Ports Act 1908, Customs Act 1969, Carriage of Goods by Sea Act 1925, and international and tort law are all aspects of maritime law. There is a gap in these regulations regarding the growth of Bangladesh's shipping industry and international trade.

---

<sup>34</sup> Mardiah Chowdhury A, "Legal Articles" (HG Legal Resources) <<https://www.hg.org/legal-articles/maritime-laws-and-regulations-in-bangladeshi-context-64291>> accessed December 16th, 2023

<sup>35</sup> Section 3 (1) of the Admiralty Court Act, Rahman BT, "Admiralty Law in Bangladesh | Deal Ship Arrest with AUTHORITY in 2023" (*Law Firm in Bangladesh TRW law firm by Tahmidur Rahman*, September 11, 2022) <<https://tahmidurrahman.com/admiralty-law-in-bangladesh/>> accessed December 19<sup>th</sup>, 2023



Moreover, a great deal of territory is uncontrolled. Issues including marine priority, pollution, towage, collision, salvage, and insurance are outside the purview of the legislation. By way of judicial reference, Bangladesh adheres to English law on a number of subjects. Both the Brussels Salvage Convention of 1910 and the Collision Convention of 1910 are governed by the Maritime Conventions Act of 1911. Although Bangladesh did not ratify the 1910 conventions, its courts nonetheless recognised English law. Owners M.L. Madina versus Owner Jalamoni, a 1978 Supreme Court of Bangladesh HCD case, acknowledged the admiralty applicability of the Act. The Supreme Court's Appellate Division upheld the High Court's verdict in BIWTC against M/S Seres Shipping Corporation World Trade Centre (1984).<sup>36</sup>

#### **4.8 Relevant Cases**

The courts in Bangladesh have relied on principles of English law in cases involving maritime insurance, even though no such legislation exists in the country. The case of Eagle Star Insurance Company Limited vs. Rahmania Trading Company makes it quite evident that: this nation does not have any legislation that specifically addresses maritime insurance. The Marine Insurance Act of 1906 primarily addresses marine insurance. This country does not have a legislation like that. This means that the rules of ordinary contracts as well as English law are applicable to marine insurance policies. The English Marine Insurance Act of 1906 is similarly governed by its principles. Sadharan Bima Corporation vs. Bengal Liners Ltd., decided by the Appellate Division, established that no legislation governing maritime insurance or unrepaired damage exists in Bangladesh. The fundamental concepts of contract law, English law, and English practice are followed by Bangladeshi marine insurance law, which is highly esteemed even by American courts.<sup>37</sup>

If a defendant is a British citizen, the Admiralty Court in England can seize any ship owned by the defendant under the Admiralty Court Act of 1961. This Court's authority is further enhanced by the Admiralty Court Acts of 1890 and 1891. Nonetheless, they contend that, unlike the Admiralty Court Act of 1861, the Administration of Justice Act of 1956, and the Colonial Courts of Admiralty Act of 1890, Bangladeshi law does not grant them the power to seize boats or assets unrelated to the case under section 3 of the same Act. Could the

---

<sup>36</sup> 28 DLR (AD) 1976, p.111

<sup>37</sup> 16 BLD (AD) 186

Admiralty Court in Bangladesh seize a sister ship belonging to the same owner? That question remains unanswered. Court precedent establishes that admiralty jurisdiction cannot seize defendant property unrelated to the subject of the action, and that only personam proceedings may be maintained, rather than claims in rem.<sup>38</sup>

In *Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd and FAI Insurance (Fiji) Ltd v. Consort Shipping Line Ltd*. It necessitates the use of binding arbitration. Bringing legal action does not disclaim the right to arbitrate. The defendant's marine hull coverage safeguarded the insured boats. Resolution through arbitration is mandatory. The insured filed a petition without knowledge. The policyholder sought a stay until arbitration. The plaintiff cannot proceed with arbitration once legal proceedings have commenced, according to insurance companies. Legal proceedings were remanded to arbitration. No waiver of arbitration was found by the court. Waivers and modifications were required in insurance contracts. The use of arbitration is not precluded by litigation.<sup>39</sup>

Before setting sail, a ship must be seaworthy, as established in the case of *Laho Ltd*, 27 people were on board the plaintiff's ship. Nothing is known about the sinking. The plaintiff was requesting repayment from the defendant's insurance company. The 'perils of the sea' are covered by ship insurance. Court rejects case. According to the ruling, a maritime hazard was the most probable cause of the vessel's sinking if the crew went missing. If the ship was not seaworthy on its last journey, the presumption that it sank due to sea risks does not hold. The defendant claims that her most recent journey was dangerous. Other charges against the defendant were also considered by the court. In order to get insurance, you need concrete evidence. Important information is needed for insurance. After the insurance had done considerable maintenance on the hull, they produced the safety certificate. The insured also needed twenty-five people rather than twenty-one. Insurance companies were not notified due to these details. Furthermore, the court determined that express guarantees had been violated.

---

<sup>38</sup> 38 DLR 30 1985

<sup>39</sup> “*Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd* [1998] FJHC 205; Hbc0383.97s (29 October 1998)” (*Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd* [1998] FJHC 205; Hbc0383.97s (29 October 1998)) <<http://www.paclii.org/fj/cases/FJHC/1998/205.html>> accessed December 20th, 2023

All product hazards must be covered by express guarantees. The plaintiffs did not meet the stringent staffing standards.<sup>40</sup>

#### **4.9 Marine Insurance Problems and Loopholes of Bangladesh**

Bangladeshi insurance agents, who are chosen from renowned localities, lack policy understanding, making marketing difficult. Young, educated people don't want insurance jobs. Such agents fail to persuade policyholders. Poverty hurts insurance marketing. It's estimated that 70% are uninformed. Illiterate people think insurance is worthless. Due to insurance ignorance, they cannot reason rationally. To operate more efficiently, insurance companies keep premiums low.

In the event of a claim, the insured often gets the minimum premium, which is often insufficient to cover the cost of repairs or replacement. Most people who have insurance cannot renew because they have lost money. A lot of problems with management need fixing. The building, engine safety, and status of the ship as still, wooden, or composite should all be checked by the insurers. Legal action over maritime insurance is not permitted.<sup>41</sup>

The Admiralty Court does not resolve marine insurance issues. The Admiralty Court can hear marine matters under section 03 of the Act 2000. Marine insurance is not mentioned. Section 3 of the Admiralty Court Act 2000 requires consultation for ship-transported commodities claims. This is an insurance claim for a loss caused by a policy-covered peril. No deadline exists for suit filing. You can sue within any time restriction if there are no marine insurance dispute provisions. Government agencies, regulators, insurers, and shipping businesses must collaborate to overcome these challenges. Bangladesh must tighten regulatory frameworks, boost awareness, and invest in technology to improve marine insurance risk assessment and claims processing.<sup>42</sup>

#### **4.10 Conclusion**

Applying the UK Marine Insurance Act of 1907 is necessary due to the absence of a marine insurance law in Bangladesh. The Admiralty Court Act of 2000 resolves conflicts. Litigation

---

<sup>40</sup> “Laho Ltd v QBE Insurance (Vanuatu) Ltd [2001] VUSC 130; Civil Case 24 of 2000 (2 April 2001)” (Laho Ltd v QBE Insurance (Vanuatu) Ltd [2001] VUSC 130; Civil Case 24 of 2000 (2 April 2001)) <<http://www.paclii.org/vu/cases/VUSC/2001/130.html>> accessed December 20th, 2023

<sup>41</sup> Infra 42

<sup>42</sup>Farhad Hosen M, “An Overview of the Statutory Laws and Regulations Relating to the Maritime Issues of Bangladesh: Loopholes and Recommendations” (2019) 10 Beijing Law Review 1331 <<http://dx.doi.org/10.4236/blr.2019.105071>> accessed December 21th, 2023

provisions and other gaps in the legislation need to be filled. The marine insurance industry in Bangladesh needs proactive and inclusive measures to grow. It is necessary to adapt technology, increase expertise, and fill in gaps in risk assessments in order to close these gaps.

## **Chapter 5**

### **Concluding Remarks**

#### **5.1 Findings**

Although Bangladesh has no specific laws, the 1906 Marine Insurance Act and 2000 Admiralty Court Act follow English law. *Eagle Star vs. Rahmania Trading Co.* used English maritime insurance rules. Bangladesh's marine insurance industry lacks coverage and policy knowledge. Case studies reveal maritime insurance contracts need arbitration and seaworthiness verification. Key findings explain Bangladeshi maritime insurance law.

#### **5.2 Recommendations**

Our country need strong maritime regulations. From an imperial or English perspective, several national maritime laws are evaluated. A third-party opinion is required to understand Bangladesh's maritime legislation. Bangladeshi law is quite like British law. Bangladesh ought to be considered by lawmakers. Section 8 ought to streamline the terminology regarding partial interests. Section 23 emphasises the use of clear terminology. Insurer signatures are required on Section 24. Both "travel" and "subject" need to be defined in Sections 25 and 26. Section 31(2) premiums are explained. Section 35 aims to streamline the process of clear warranties. Simplify Section 39 by clarifying the ship's seaworthiness guarantee. Things are not impliedly seaworthy, as should be further indicated under Section 40. India enacted the Marine Insurance Act, 1963, while the United States, Pakistan, and the United Kingdom have all revised their legislation to emphasise the importance of customer service.

A new body of marine law ought to govern all maritime connections. Many parties are involved in the complex process of sea trade. Skills of the crew and captain, obligation of the shipowner in the event of a collision, aid in the event of a rescue, marine insurance, pollution, conflicts in the maritime industry, liens, etc. Regardless of the new initiative, Bangladesh must thoroughly research and analyse international maritime rules, statutes, and practices in order to gain insight from other countries' experiences and prevent legal complications.

### **5.3 Conclusion**

Bangladesh requires marine law to preserve its sea rights. Governments, unions, insurance companies, brokers, seafarers, pilots, professors, arbitrators, judges, and attorneys will participate in Bangladesh's new marine laws. New maritime laws will include shipowner liability, master and crew duties, pollution, marine liens, collision responsibility, marine insurance, salvage and assistance, and more.

No matter the format, investigate foreign maritime laws, international legislation, and practices. Avoiding conflicts of law, adopting international practices, and learning from others can help Bangladesh develop international experience.

## Bibliography

### Primary sources:

#### Statutes:

Marine Insurance Act, 1906

**Marine Insurance Act, 1963**

Code of Civil Procedure, 1908

The Constitution of the People's Republic of Bangladesh

Admiralty Court Act, 2000

Insurance Act, 2010

Lloyd's Act, 1871

Bills of Lading Act, 1856

Carriage of Goods by Sea Act, 1925

Merchant Shipping Ordinance 1983

Marine Fisheries Ordinance 1983

Ports Act, 1908

Maritime Conventions Act, 1911

#### Cases:

M.L. Madina vs Owner Jalamoni (1978) 30 DLR 149

Bangladesh Inland Water Transport Corporation vs M/S Seres Shipping Corporation World Trade Centre (1984) 36 DLR (AD) 82

Eagle Star Insurance Company Limited vs. Rahmania Trading Company 28 DLR (AD) 1976, p.111

Sadharan Bima Corporation vs. Bengal Liners Ltd 16 BLD (AD) 186

Kings Shipping Trading Co. Vs. M/S. L.S. Lines and Others 38 DLR 30 1985

Stewart vs. New Zealand, (1912) 16 C.W.N. 991, 996

Kulukundis vs. Norwich Union Fire Insurance Society, (1937) 1 K.B. 1, 34 C.A

Cf. Rickards vs. Porestal, (1942) A.C. 50, 79 H.L.

Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd [1998] FJHC 205; Hbc0383.97s (29 October 1998); aff'd

FAI Insurance (Fiji) Ltd v Consort Shipping Line Ltd [1999] FJCA 10; Abu0075u.98s (11 February 1999)

Laho Ltd v QBE Insurance (Vanuatu) Ltd [2001] VUSC 130; Civil Case 24 of 2000 (2 April 2001)

### **Secondary sources:**

#### **Books:**

Paul, Nirmal Chandra, *Laws on Insurance*, 4<sup>th</sup> Edition, Shams Publication, Dhaka, February 2021.

Hasan, S.M Mohiuddin, *Admiralty and Maritime Laws of Bangladesh*, 6<sup>th</sup> Edition, Shams Publication, Dhaka, 2016, p. 289.

Kuchhal, M C, *Mercantile Law*, 6th Edition, Vikas Publishing House PVT LTD, New Delhi, 2007, p. 58

Chaudhuri, Azizul Haq, *Risk & Insurance*, 2<sup>nd</sup> Edition, Brothers' Publications, Dhaka, 2008, p. 62.

Hodges, Susan, *CASES AND MATERIALS ON MARINE INSURANCE LAW*, Cavendish Publishing Limited, p. 213.

#### **Online Journals:**

Alam MdA and Zakaria MdG, "Flag Vessel Protection Law in Bangladesh: A Critical Analysis | International Journal of Innovative Research and Development" (*Flag Vessel Protection Law in Bangladesh: A Critical Analysis | International Journal of Innovative Research and Development*, August 16, 2016)

<[https://www.internationaljournalcorner.com/index.php/ijird\\_ojs/article/view/136314](https://www.internationaljournalcorner.com/index.php/ijird_ojs/article/view/136314)>

accessed November 11<sup>th</sup>, 2023

Farhad Hosen M, "An Overview of the Statutory Laws and Regulations Relating to the Maritime Issues of Bangladesh: Loopholes and Recommendations" (2019) 10 Beijing Law Review 1331 <<http://dx.doi.org/10.4236/blr.2019.105071>> accessed November 12<sup>th</sup>, 2023



Mishra A and Agarwal A, “Marine Insurance and Its Legal Aspects in India: Perils of the Sea” Volume 1 International Journal of Law and Legal Jurisprudence Studies <<https://ijlljs.in/wp-content/uploads/2014/12/Short Article Marine insurance and its legal aspects in India.pdf>> accessed December 10<sup>th</sup>, 2023

Farhad Hosen M, “An Overview of the Statutory Laws and Regulations Relating to the Maritime Issues of Bangladesh: Loopholes and Recommendations” (2019) 10 Beijing Law Review 1331 <<http://dx.doi.org/10.4236/blr.2019.105071>> accessed December 21<sup>th</sup>, 2023

### **Online Websites:**

“Insurance Definition | Legal Glossary | LexisNexis” (*Insurance Definition | Legal Glossary | LexisNexis*) <<https://www.lexisnexis.co.uk/legal/glossary/insurance>> accessed November 13<sup>th</sup>, 2023

“Marine Insurance | Meaning, Types, Benefits & Coverage” (*Marine Insurance | Meaning, Types, Benefits & Coverage*) <<https://www.dripcapital.com/resources/blog/marine-insurance-meaning-types-benefits>> accessed November 15<sup>th</sup>, 2023

Rose FD, “CHAPTER 2 THE SUBJECT MATTER OF INSURANCE” (*CHAPTER 2 THE SUBJECT MATTER OF INSURANCE*) <<https://www.ilaw.com/ilaw/doc/view.htm?id=130878>> accessed November 16<sup>th</sup>, 2023

“The Marine Insurance” (*The Marine Insurance*) <<https://www.lawteacher.net/free-law-essays/contract-law/the-marine-insurance.php>> accessed November 17<sup>th</sup>, 2023

“Chapter 4” (*Transport Canada*, June 18, 2019) <<https://tc.canada.ca/en/marine-transportation/marine-safety/chapter-4>> accessed November 18<sup>th</sup>, 2023

MUSJAB I, “Perils of the Seas v Perils on the Seas” (*Perils of the seas v Perils on the seas*, December 14, 2023) <<https://ahliasuransi.com/perils-of-the-seas-v-perils-on-the-seas/>> accessed November 18<sup>th</sup>, 2023

“Fundamental 5 Principles of Marine Insurance - Bajaj Allianz” (*Bajaj Allianz*, March 31, 2021) <<https://www.bajajallianz.com/blog/knowledgebytes/principles-of-marine-insurance.html>> accessed November 19<sup>th</sup>, 2023

Govindasamy R, “Marine Insurance - Voyage Policy” (*DieselShip*, April 13, 2018) <<https://dieselship.com/uncategorized/various-types-of-marine-insurance-policy/>> accessed November 20<sup>th</sup>, 2023

Floating Policy by Ship or Ships. | Marine Insurance Act 1906 (c. 41) | Better Regulation” (29. *Floating policy by ship or ships. | Marine Insurance Act 1906 (c. 41) | Better Regulation*) <<https://service.betterregulation.com/document/182068>> accessed November 21<sup>th</sup>, 2023

Corp JI, “What Is Not Covered by Marine Insurance? - JMG” (*JMG*, March 21, 2022) <<https://jmg.com/what-is-not-covered-by-marine-insurance/>> accessed November 22<sup>th</sup>, 2023  
“History of Marine Insurance | PDF | Codification (Law) | Insurance” (*Scribd*) <<https://www.scribd.com/doc/20000408/History-of-Marine-Insurance>> accessed November 24<sup>th</sup>, 2023

Morris GD, Company AI and Team RE, “A Brief History of Marine Insurance - Risk & Insurance” (*Risk & Insurance*, March 6, 2018) <<https://riskandinsurance.com/brief-history-marine-insurance/>> accessed November 27<sup>th</sup>, 2023

UNCTAD, 'Legal and documentary aspects of the marine insurance contract' (*UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, November, 1978*) <[https://unctad.org/system/files/official-document/tdbc4ISL27Rev.1\\_en.pdf](https://unctad.org/system/files/official-document/tdbc4ISL27Rev.1_en.pdf)> accessed November 28<sup>th</sup>, 2023

Ridge J, “TO STAND AGAINST THE COMPANY: A STUDY OF THE BRITISH HONOURABLE EAST INDIA COMPANY AND PIRACY IN THE INDIAN OCEAN WORLD, CIRCA 1680-1760” (*Murray State's Digital Commons*, 2017) <<https://digitalcommons.murraystate.edu/cgi/viewcontent.cgi?article=1017&context=etd>> accessed November 29<sup>th</sup>, 2023

“Insurance - Risk Management, Underwriting, Reinsurance” (*Encyclopedia Britannica*)  
<<https://www.britannica.com/money/topic/insurance>> accessed November 29<sup>th</sup>, 2023

Ahuja K, “Marine Insurance” (*DOC Marine Insurance / Kanika Ahuja - Academia.edu*)  
<[https://www.academia.edu/16064979/Marine\\_Insurance](https://www.academia.edu/16064979/Marine_Insurance)> accessed December 10<sup>th</sup>, 2023

“Marine Insurance” (*Lexology*) <<https://www.lexology.com/library/detail.aspx?g=134ebe57-ed8a-44ce-881f-349b7ea13acf>> accessed December 11<sup>th</sup>, 2023

“Convention on the International Maritime Organization” (*International Maritime Organization*) <<https://www.imo.org/en/About/Conventions/Pages/Convention-on-the-International-Maritime-Organization.aspx>> accessed December 16<sup>th</sup>, 2023

“The Law of the Sea and Maritime Boundary Disputes – Legal Framework and Case Studies” (*The Law of the Sea and Maritime Boundary Disputes – Legal Framework and case studies*) <<https://www.linkedin.com/pulse/law-sea-maritime-boundary-disputes-legal-framework-case-studies-t16mf>> accessed December 16<sup>th</sup>, 2023

“Maritime Laws of Bangladesh” (*Maritime Laws of Bangladesh*) <<https://www.linkedin.com/pulse/maritime-laws-bangladesh-bdlex-manupatra>> accessed December 16<sup>th</sup>, 2023

Mardiah Chowdhury A, “Legal Articles” (*HG Legal Resources*) <<https://www.hg.org/legal-articles/maritime-laws-and-regulations-in-bangladeshi-context-64291>> accessed December 16<sup>th</sup>, 2023

Islam Z, “Pblems and Prospects of Insurance Business in Bangladesh” ((DOC) *Pblems and prospects of insurance business in Bangladesh* | Zahirul Islam - Academia.edu)

<[https://www.academia.edu/1767455/Pblems\\_and\\_prospects\\_of\\_insurance\\_business\\_in\\_bangladesh](https://www.academia.edu/1767455/Pblems_and_prospects_of_insurance_business_in_bangladesh)> accessed December 18<sup>th</sup>, 2023

Maritime, Admiralty, and Ship Arrest in Bangladesh” (*Maritime, Admiralty, and Ship Arrest in Bangladesh*) <<https://www.linkedin.com/pulse/maritime-admiralty-ship-arrest-bangladesh-bdlex-manupatra>> accessed December 19<sup>th</sup>, 2023

Rahman BT, “Admiralty Law in Bangladesh | Deal Ship Arrest with AUTHORITY in 2023” (*Law Firm in Bangladesh TRW law firm by Tahmidur Rahman*, September 11, 2022)

<<https://tahmidurrahman.com/admiralty-law-in-bangladesh/>> accessed December 19<sup>th</sup>, 2023

“Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd [1998] FJHC 205; Hbc0383.97s (29 October 1998)” (*Consort Shipping Line Ltd v FAI Insurance (Fiji) Ltd [1998] FJHC 205; Hbc0383.97s (29 October 1998)*) <<http://www.pacii.org/fj/cases/FJHC/1998/205.html>> accessed December 20<sup>th</sup>, 2023

“Laho Ltd v QBE Insurance (Vanuatu) Ltd [2001] VUSC 130; Civil Case 24 of 2000 (2 April 2001)” (*Laho Ltd v QBE Insurance (Vanuatu) Ltd [2001] VUSC 130; Civil Case 24 of 2000 (2 April 2001)*) <<http://www.pacii.org/vu/cases/VUSC/2001/130.html>> accessed December 20<sup>th</sup>, 2023

“Bangladesh Desperately Needs a Comprehensive Maritime Law” (*The Business Standard*, January 9, 2022) <<https://www.tbsnews.net/thoughts/bangladesh-desperately-needs-comprehensive-maritime-law-355093>> accessed December 25<sup>th</sup>, 2023

“Marine Insurance Act 1906” (*Marine Insurance Act 1906*) <<https://www.legislation.gov.uk/ukpga/Edw7/6/41>> accessed December 26<sup>th</sup>, 2023