



Essential Readings in Environmental Law
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SHIPBREAKING AND ENVIRONMENTAL LAW
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OVERVIEW OF KEY SCHOLARSHIPS

1. Karim, S., “Environmental Pollution from Shipbreaking Industry: International Law and National Legal Response” (2010) 22 *Georgetown International Environmental Law Review* 185.
2. Karim, S., “Violation of Labour Rights in the Ship-breaking Yards of Bangladesh: Legal Norms and Reality” (2009) 25, *The International Journal of Comparative Labour Law and Industrial Relations* 379.
3. Puthucherril, G. T., *From Shipbreaking to Sustainable Ship Recycling: Evolution of a Legal Regime* (BRILL, 2010).
4. Frey, R. S., *Breaking Ships in the World-System: An Analysis of Two Ship Breaking Capitals, Alang India and Chittagong, Bangladesh* (CSSJ Working Papers #13-01, Center for the Study of Social Justice, 2013).
5. Moen, E. A., “Breaking Basel: The Elements of the Basel Convention and Its Application to Toxic Ships” (2008) 32 *Marine Policy* 1053.
6. Pelsy, F., “The Blue Lady Case and the International Issue of Ship Dismantling”, (2008) 4 *Law, Environment and Development Journal* 135.
7. Sawyer, F. J., “Shipbreaking and the North-South Debate: Economic Development or Environmental and Labor Catastrophe” (2001-2002) 20 *Penn State International Law Review* 535.

Background

In the past, shipbreaking was a very common industrial activity in many developed countries. It was a highly mechanized activity carried out at docks. Due to the increasing costs of environmental, health and safety standards in developed countries, this industry was transferred to developing Asian countries, particularly India, Bangladesh, China, Turkey, and Pakistan. The shipbreaking yards of these developing countries dismantle 600-700 large vessels each year. Other major catalysts for this shifting of the shipbreaking industry’s location are developing countries’ cheap and plentiful labour, lax environmental laws, and increasing demand for steel. Shipbreaking involves a sequential chain of activities in the inter-tidal zone, on the beach, and on shore. Before beaching, oily wastes, chemicals, and other hazardous substances are discharged

into the sea to make the vessel ready for scrapping. This process severely impairs the water quality of the adjacent sea area, which has harmful impacts on the marine ecosystem. Shipbreaking is not only a problem of developing countries. Developed countries are also facing difficulty in the disposal of their obsolete ships. Due to stringent domestic environmental and labour laws, it is almost impossible for them to dispose of their growing number of obsolete ships domestically. Given the global importance of the issue, an effective legal and institutional framework is needed for the sustainable and environmentally friendly operation of the shipbreaking industry.

1. **S. Karim's article, titled *Environmental Pollution from Shipbreaking Industry: International Law and National Legal Response***, shows that the international legal regime on shipbreaking is in its formative years. At the international level, the shipbreaking industry is partially governed by the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*. However, how far this convention will be applicable for all aspects of transboundary movement of end-of-life ships is still, at least in the view of some scholars, a debatable issue. Against this backdrop, the International Maritime Organisation (IMO) has adopted a new, legally binding convention for shipbreaking. There is a rising voice from the developing countries that the convention is likely to impose more obligations on recycling facilities in the developing countries than on ship-owners from rich nations. This may be identified as a clear derogation from the globally recognized international environmental law principle of common but differentiated treatment. This article examines in detail major international conventions regulating transboundary movement and environmentally sound disposal of obsolete ships, as well as the corresponding laws of Bangladesh, the major shipbreaking country in the world, for implementing these conventions in the domestic arena. It also analyses the recently adopted *IMO Ship Recycling Convention*.
2. **S. Karim's *Violation of Labour Rights in the Ship-breaking Yards of Bangladesh: Legal Norms and Reality*** posits that the management of shipbreaking industry in developing countries is primitive and unsound. Although specific information is not available, it is estimated that about 700 workers have been killed and, at the same time, a total of 10,000 workers have been injured in explosions at ship-breaking yards over the last three decades in Bangladesh alone. This process continues unabated in the absence of specific legislation for regulating ship-breaking industries. Against this backdrop, this paper identifies the major issues relating to enforcement of labour rights in the ship-breaking yards. It argues that "No economic consideration can be offset against human life. An industry that does not care for its workers and is not ready to implement minimum labour standards should not be allowed to operate only on the basis of some overstated economic considerations. If the present practice continues, only an elite class will benefit at the cost of the lives of thousands of people in the marginalized segment of society."

3. In his book ***From Shipbreaking to Sustainable Ship Recycling: Evolution of a Legal Regime***, **T. G. Puthucherril** gives a good critical introduction of the international legal regime governing the shipbreaking industry. In evaluating the present crucial stage of development of international ship recycling regime the book particularly examines whether a unilateral approach to regulate the shipbreaking industry can be effective, at least in that particular country and in ways that the existing international legal framework may contribute in ensuring sustainable development of the shipbreaking industry. It also critically examines the effectiveness of the existing international legal framework. This book argued that “the activity of breaking ships for steel results in gross human rights violations and environmental damage, primarily, because simple economic development considerations can override respect for the environment and the human rights of workers, and industry leaders fail to recognise the interrelatedness of these three elements.”
4. In his paper titled, ***Breaking Ships in the World-System: An Analysis of Two Ship Breaking Capitals, Alang India and Chittagong, Bangladesh***, **R. S. Frey** considers the broader issue of the world-system that allows countries to externalise their hazards or environmental harms on others. He identifies the practice of transferring obsolete vessels to the developing countries as the “the globalization of health, safety, and environmental risks.”
5. **A. E. Moen’s *Breaking Basel: The Elements of the Basel Convention and Its Application to Toxic Ships*** discussed the issues related to uncertainties surrounding the application of the *Basel Convention* to prevent export of toxic ships from developed countries to developing nations.
6. The paper by **F. Pelsy**, titled ***the Blue Lady Case and the International Issue of Ship Dismantling***, discusses the international legal framework regulating the shipbreaking industry in the context of the highly controversial decision of the Indian Supreme Court allowing the dismantling of the vessel—Blue Lady—in Alang shipbreaking yard and the Clemenceau case before the French Conseil d’état. This article strongly opposes “the Supreme Court of India’s decision that prioritises the commercial interest of the dismantling companies over the social and environmental concerns of the workers and the communities living in Alang.”
7. When we talk about shipbreaking, we must consider the realities on the ground. Developing countries do not have the luxury of phasing out this industry, because it plays a great role in the economic development of the country by supplying iron and providing livelihood to the poor. **J. F. Sawyer** discusses this issue in his article, titled ***Shipbreaking and the North-South Debate: Economic Development or Environmental and Labor***

Catastrophe, and observes that “[m]any developing nations are Parties to the Basel Convention because it protects them against the dumping of hazardous waste in their countries. However, the Basel Convention, despite its noble intentions, will likely hurt the three primary shipbreaking nations if the Basel Ban ceases the sale of ships for scrap to their countries.” However, as observed in the above mentioned papers, this consideration should not be used to justify rampant violation of the human rights of workers and irreparable damage of the marine environment by the shipbreaking industries.