

## The Criminalisation of the Ship's Master. A new approach for the new Millennium

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The criminalisation of seafarers has been observed as a growing phenomenon for more than thirty years, presenting a picture of increasing liability upon the Master even though their responsibilities remain essentially unchanged in generations of maritime law. Over the same period, the structure of the maritime environment in which they work has changed dramatically, as evidenced by the complex evolution of Fleet Ownership and Management and the resultant challenges in identifying the party liable in a potential action. Paradoxically, the person least able to influence such changes has been the Master, who has seen the key features of their traditional relationship with the ship operator blurring, as the structure of maritime operations has evolved with the demands of social and economic change. The effect of these changes has left the Master with diminishing management influence without losing responsibility. They remain Master Under God, but without God's authority over the management of the ship's affairs.

Faced with an increasing amount of criminal prosecutions globally in recent decades, the shipping industry has met the phenomenon with growing dismay, the downstream consequence of which has raised questions challenging the proportionality and, indeed, the fairness, of criminal accountability, in what is perceived by the maritime community to be a disharmonised system worldwide.

The purpose of this work is to examine the many facets of the mischief with which the phenomenon confronts the Master in their professional conduct, both in terms of Flag State and Port State obligations. But the purpose goes further than that, for upon this foundation we can then synthesise options for a solution.

Ultimately, this thesis is all about the perception of justice in a globalised maritime community in the twenty first century – but the real challenge is to rationalise a new approach to criminalisation, which would meet the interests of justice both for the Master and the State. In the harsh reality of intractable disputes in the twenty first century, that new approach might mean a compromise, which may not be ideal for the Master or for the State, but would be something which both can live with.