AN APPRAISAL OF THE ROLES OF THE COURTS IN THE ARREST OF VESSELS IN NIGERIA

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Abstract

Nigeria as a state relies on maritime commerce for over 80% of its international trade volume; implementing this procedure requires navigating an intricate legal landscape. The tension between protecting international creditors and safeguarding ship owners against crippling economic losses places a unique burden on the Nigerian judiciary. This paper evaluates the modern judicial attitude of Nigerian courts toward the arrest and detention of vessels. This paper adopted a doctrinal methodology, analysing statutes and applicable instruments, case law, among others. The conceptual baseline centres upon the action in rem, the vessel's legal personality, and other issues which explore comparative approaches separating Nigerian arrest protocols from concurrent frameworks in the United Kingdom and South Korea. The paper recommended structural upgrades for the Nigerian maritime judiciary, among other salient recommendations.

Keywords: Action in Rem, Admiralty Jurisdiction, AJPR 2023, Maritime Lien, Federal High Court, Vessel Arrest

1.0 INTRODUCTION

The legal system governing merchant shipping and commercial navigation within Nigerian territorial waters represents a sophisticated

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synthesis of received common law, international maritime conventions, and indigenous statutory developments.[1] Central to this architecture is the *action in rem* a procedural tool that permits a claimant to file an action directly against a physical vessel rather than its owners[2]. This process is operationalized through the physical arrest of the ship, effectively placing the *res* under judicial detention to serve as pre-judgment security or to compel the appearance of foreign ship owners who might otherwise evade the court's jurisdiction[3]. Because of its highly disruptive potential, the execution of an arrest warrant requires active, rigorous oversight from the Federal High Court.[4] Over the years, the judiciary's approach to these matters has directly influenced Nigeria's status as a stable, predictable, and competitive forum for international maritime commerce.[5]

Despite the statutory clarity intended by the Admiralty Jurisdiction Act (AJA) 1991, the practical execution of vessel arrests in Nigeria has frequently faced procedural and administrative friction.[6] Litigants have historically endured bureaucratic delays within court registries, high financial thresholds tied to providing indemnities to the Admiralty Marshal, and shifting judicial standards regarding what constitutes a

[1] O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 12.
[2] A Adediran, 'The Personification of the Ship in Nigerian Admiralty Jurisprudence' (2019) 12(2) *Journal of Maritime Research* 45, 46.
[3] Admiralty Jurisdiction Act, Cap A5, Laws of the Federation of Nigeria (LFN) 2004, s 5; see also *MV "Vali Pero" v Sylvanus Transport Ltd* (1998) 10 NWLR (Pt 571) 606.
[4] Constitution of the Federal Republic of Nigeria 1999, s 251(1)(g); see also Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 7 R 1.
[5] O Tunde-Olowu, 'Post-Pandemic Maritime Litigation in Nigeria: Virtual Hearings and Vessel Arrests' (2024) 22(1) *Nigerian Journal of Admiralty Law* 1, 4.
[6] Admiralty Jurisdiction Act, Cap A5, Laws of the Federation of Nigeria (LFN) 2004; see also J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133.

prima facie ground for arrest.[7] Furthermore, the maritime industry has faced commercial uncertainty due to inconsistent rulings on whether to accept international Protection and Indemnity (P&I) Club Letters of Undertaking (LOUs) as valid security to release a ship. Prolonged vessel detentions disrupt international supply chains and accumulate significant port fees and demurrage, creating a pressing need for a structured, predictable, and modernized judicial approach.[8]

To address these challenges, this paper evaluates the modern framework of maritime arrests in Nigeria by examining its theoretical underpinnings and legislative foundations. The study is structured into distinct thematic sections: Part 2 establishes the theoretical framework regarding the *action in rem* and the legal personality of vessels, while Part 3 unpacks the exclusive jurisdiction of the Federal High Court. Part 4 presents an extensive literature review of twenty academic and professional sources, followed by Part 5's comparative analysis contrasting Nigeria's arrest and bail mechanisms with practices in the United Kingdom and South Korea. Finally, Part 6 highlights recent procedural shifts, such as e-filing and emergency judicial windows, and Part 7 concludes with targeted structural recommendations for the Nigerian maritime judiciary.

2.0 CONCEPTUAL CLARIFICATIONS

2.1 Vessel

A vessel is not merely an object of transport, but a dynamic, legal entity.[9] Section 26 of the Admiralty Jurisdiction Act (AJA) 1991 broadly defines a vessel as any ship, boat, or description of vessel used in navigation on

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[7] O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 45; see also *Owners of the MV "Arabella" v Nigeria Agricultural Insurance Corp* (2008) 11 NWLR (Pt 1097) 182.

[8] O Tunde-Olowu, 'Post-Pandemic Maritime Litigation in Nigeria: Virtual Hearings and Vessel Arrests' (2024) 22(1) *Nigerian Journal of Admiralty Law* 1, 3.

[9] A Adediran, 'The Personification of the Ship in Nigerian Admiralty Jurisprudence' (2019) 12(2) *Journal of Maritime Research* 45, 47.

water, including hovercrafts, oil rigs, and floating platforms[10]. Under Nigerian law, a maritime vessel possesses a distinct legal personality. A ship is not treated merely as a mechanical piece of wood, steel, and iron; instead, it is viewed as a corporate-like entity capable of suing and being sued. Every merchant vessel must be registered with a unique name approved by maritime authorities (such as the Nigerian Maritime Administration and Safety Agency - NIMASA). In a writ of summons, the defendant is typically styled as *"The Owners of the Vessel MV [Name of Ship]"* or directly as *"The Vessel MV [Name of Ship]"*. For the purpose of admiralty jurisdiction, a vessel is viewed through the prism of the Personification Theory, possessing an independent legal personality, a unique registered name, and a distinct "body" capable of being sued and arrested as a primary defendant.[11] The ship itself can commit maritime torts (like collisions) or incur debts (like unpaid fuel bills), allowing the law to arrest its body to answer for those specific wrongs or compel satisfaction of the claim.

2.2 Action in Rem

The bedrock of maritime litigation is the *action in rem*, a legal proceeding brought directly against a physical thing (the *res*) rather than against a specific individual. Unlike standard civil litigation (*action in personam*) where a plaintiff sues a defendant personally, an *action in rem* names the vessel itself as the defendant[12]. This procedural mechanism allows a claimant to initiate legal action despite the physical absence or anonymity of the ship's owner. The vessel is treated as the instrument that committed the wrong or incurred the debt. Therefore, it must answer for the liability. This mechanism allows a claimant to initiate litigation in the Federal High

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[10] Admiralty Jurisdiction Act, Cap A5, LFN, 2004, s 26.

[11] *MV "Vali Pero" v Sylvanus Transport Ltd* (1998) 10 NWLR (Pt 571) 606. O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 72.

[12] J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133, 136.

Court by naming the ship as the defendant (e.g., *The Vessel MV "Arabella"*), bypassing the need to establish immediate personal jurisdiction over an elusive or foreign ship owner.[13]

2.3 Arrest of Vessel

The arrest of a vessel is a formal judicial process whereby the Admiralty Marshal, acting under a warrant issued by a Judge of the Federal High Court, takes physical and legal custody of a ship within Nigerian territorial waters.[14] Unlike a standard civil attachment, a maritime arrest is an interlocutory mechanism designed to preserve the *res* or force the ship owner to provide pre-judgment security.[15] Once arrested, the vessel is legally detained and cannot clear port or engage in commercial navigation until explicitly released by a court order.

2.4 Maritime Lien

A maritime lien is a privileged, non-possessory claim that attaches directly to the hull, superstructure, and cargo of a vessel by operation of law from the moment the cause of action arises.[16] Under Section 5(3) of the AJA 1991, maritime liens are limited to claims for salvage, crew wages, master's disbursements, and damage done by a ship (such as a collision).[17] A maritime lien is unique because it "travels" with the ship invisibly or silently, remaining enforceable against the *res* even if the vessel is subsequently sold to an innocent third-party purchaser.[18] Typical examples include crew wages and salvage rewards.

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[13] *MV "S Araz" v Central Organisation for Foodstuff* (2002) 17 NWLR (Pt 796) 244; see also Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 2 R 1.

[14] Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 7 R 3.

[15] E Asuquo, 'Evaluating the Speed of Res Release under the AJPR' (2023) 15(1) *African Journal of International Admiralty Law* 14, 18.

[16] P Enejere, 'Priority of Maritime Liens: Seafarers' Wages in Focus' (2020) 9(1) *Calabar Law Journal* 40, 43.

[17] Admiralty Jurisdiction Act (n 1) s 5(3).

[18] J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133, 137.

2.5 Statutory Right in Rem (General Maritime Claim)

Unlike a maritime lien, a statutory right *in rem* does not attach to a vessel automatically from the inception of the debt or wrong. Instead, it is a right created by Section 5(4) of the AJA 1991 that matures into a security culminating in an interest only when the claimant files an action *in rem* and successfully executes an arrest warrant.[19] Examples include claims for unpaid bunkering fees, ship repairs, towage, and cargo damage. Crucially, this right can only be exercised if the person liable *in personam* remains the beneficial owner or demise charterer of the vessel at the time the lawsuit is filed.[20]

2.6 Bail (Vessel Security)

In admiralty practice, bail refers to the provision of a sufficient, court-approved financial instrument to replace the physical body of an arrested vessel.[21] Because keeping a ship detained causes massive economic losses, the law permits ship owners to secure the release of their ship by posting alternative security, such as a local bank guarantee, a cash deposit, or a P&I Club Letter of Undertaking (LOU).[22] Once the bail is granted, the financial fund takes the place of the vessel, and the lawsuit proceeds against that security while the physical ship is allowed to sail.[23]

2.7 Sister-Ship Arrest

A sister-ship arrest is a statutory mechanism that allows a claimant to arrest an alternative vessel owned by the same individual or corporate

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[19] Admiralty Jurisdiction Act (n1) s 5(4).

[20] V Okafor, 'Letters of Undertaking (LOU) and the Nigerian Judiciary' (2016) 7(3) *Port Harcourt Law Journal* 164, 168.

[21] Ibid 22

[22] M Bello, 'Marine Insurance Clauses and the Impact of Judicial Detention' (2020) 6(2) *Ibadan Law Review* 201, 209. AJP Rules (AJPR) 2023, O 8 R 2.

[23] *Owners of the MV "Arabella" v Nigeria Agricultural Insurance Corp* (2008) 11 NWLR (Pt 1097) 182; see also O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 95.

entity that caused the injury or incurred the debt.[24] Section 6 of the AJA 1991 empowers Nigerian courts to look past immediate corporate shell companies to establish true beneficial ownership, ensuring that a claimant can secure their claim by arresting any ship within the defendant's commercial fleet or that corporate restructuring cannot be used to evade legitimate maritime liabilities.[25]

2.8 Protection & Indemnity (P&I Club)

A P&I Club is a mutual insurance association made up of ship owners, operators, and charterers who pool their resources to provide third-party liability cover.[26] When a member's vessel is arrested, the P&I Club often issues a Letter of Undertaking (LOU).[27] This document guarantees that the club will pay any final judgment sum up to a specific cap, acting as a form of commercial bail to secure the ship's release.[28]

3.0 LEGAL AND INSTITUTIONAL FRAMEWORK

3.1 Constitution of the Federal Republic of Nigeria, 1999

The 1999 Constitution of the Federal Republic of Nigeria establishes the jurisdictional boundary for maritime matters.[29] Section 251(1)(g) grants exclusive jurisdiction to the Federal High Court in all civil causes and matters relating to admiralty jurisdiction.[30] This encompasses shipping, navigation on tidal waters and inland waterways, international ports, marine insurance, and the arrest of ships.[31] While the Federal High Court

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[24] E Olambo, 'Sister-Ship Arrests under Section 6 of the Admiralty Jurisdiction Act' (2022) 19(2) *Commercial Law Review* 90, 94.
[25] Admiralty Jurisdiction Act, Cap A5, LFN, 2004, s 6; see also *MV "S Araz" v Central Organisation for Foodstuff* (2002) 17 NWLR (Pt 796) 244
[26] M Bello, 'Marine Insurance Clauses and the Impact of Judicial Detention' (2020) 6(2) *Ibadan Law Review* 201, 204.
[27] Ibid 22
[28] Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 8 R 2
[29] Constitution of the Federal Republic of Nigeria 1999, s 251(1)(g).
[30] O Agbakoba (n 33)
[31] Admiralty Jurisdiction Act, Cap A5, LFN, 2004, s 1.

possesses exclusive and nationwide jurisdiction over maritime matters, procedural compliance remains a fundamental prerequisite for invoking that jurisdiction. In the case of *Owners of the MV Arabella v Nigeria Agricultural Insurance Corporation (NAIC)*[32]*,* the Supreme Court established that the nationwide reach of the Federal High Court does not erase the distinct territorial boundaries of its judicial divisions for serving processes. Where an action in rem or in *personam* is issued in one judicial division (Lagos) to be served on a defendant in another division/ state (Abuja), strict compliance with Sections 96 and 97 of the Sheriffs and Civil Process Act (SCPA), requiring prior leave of the court and mandatory statutory endorsements, is compulsory. Failure to obtain leave renders the issuance and service of the writ a nullity, robbing the court of jurisdiction regardless of the substantive merits of the maritime claim.

3.2 Admiralty Jurisdiction Act (AJA) 1991

The AJA defines the substantive boundaries of judicial power. Section 1 outlines the scope of admiralty claims, categorizing them into Proprietary Maritime Claims (disputes regarding title, ownership, possession, or mortgage satisfaction) and General Maritime Claims (claims for cargo damage, collision liability, salvage, towage, and pilotage fees).[33] Sections 5(3) and 5(4) of the AJA differentiate the mechanisms for invoking this jurisdiction.[34] Section 5(3) permits an action *in rem* for established maritime liens (such as crew wages or salvage rewards), which attach to the ship regardless of ownership changes.[35] Section 5(4) governs statutory rights *in rem*, which require that the person liable *in personam* was the owner, charterer, or person in possession of the vessel when the cause of

[32] *Owners of the MV "Arabella" v Nigeria Agricultural Insurance Corp* (2008) 11 NWLR (Pt 1097) 182.
[33] Admiralty Jurisdiction Act, Cap A5, LFN, 2004, s 1.
[34] Ibid s 5(3) & (4).
[35] *MV "S Araz" v Central Organisation for Foodstuff* (2002) 17 NWLR (Pt 796) 244.

action arose, and remains the beneficial owner or demise charterer at the time the action is commenced.[36]

3.2 Institutional Framework

3.2.1 The Federal High Court Admiralty Registry: Serves as the administrative center where actions *in rem* are processed. The registry maintains a Caveat Book, which litigants must consult before applying for an arrest warrant to verify whether an existing *caveat against arrest* or *caveat against release* has been lodged for that specific vessel.[37]

3.2.2 The Admiralty Marshal: This is appointed among the principal officers of the Federal High Court (typically the Chief Registrar). The Admiralty Marshal is responsible for executing arrest orders issued by the bench.[38] Supported by Deputy Admiralty Marshals across coastal states, the Marshal physically takes custody of the vessel, coordinates with port authorities, and ensures the ship remains detained until explicitly released by a court order.[39]

3.2.3 Auxiliary Regulatory Entities: Agencies like the Nigerian Maritime Administration and Safety Agency (NIMASA) and the Nigerian Ports Authority (NPA) work alongside the court.[40] When an arrest warrant is issued, the Admiralty Marshal serves copies on the NPA and port pilots to prevent the target vessel from receiving clearance or pilotage services, effectively securing it within the port limits.

4.0 LITERATURE REVIEW

Some scholars provided insights to this topic before this paper. For instance, Agbakoba provides a foundational assessment, asserting that

[36] Admiralty Jurisdiction Act 2004 (n 10) s 5(4).
[37] Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 6 R 1.
[38] O Agbakoba (n 3) 85.
[39] Admiralty Jurisdiction Procedure Rules 2023, O 7 R 3.
[40] T Akinro, 'Auxiliary Enforcement of Admiralty Warrants: The Role of the NPA' (2020) 8(1) *Nigerian Bar Journal* 112, 115.

while the centralized exclusivity of the Federal High Court creates room for structural specialization, the actual processing of actions *in rem* has historically suffered from severe administrative delays within court registries.[41] He argues that these systemic bottlenecks cause vessels to remain detained far longer than necessary, driving up port expenses and harming Nigeria's reputation among international shipping lines.[42] This practical concern is countered from a theoretical perspective by Adediran, who conducts a deep-dive analysis into ship personification under Nigerian jurisprudence.[43] He contends that the legal fiction of treating a ship as an independent person is an essential tool for developing maritime nations.[44] This status allows local cargo owners and port suppliers to sue foreign merchant ships directly, removing the need to locate or serve corporate parent companies operating in distant jurisdictions.

The financial barriers built into the rules of court have also drawn significant academic criticism. Nwafor examines the rules governing indemnities and notes that forcing a claimant to provide an open-ended financial guarantee to cover the Admiralty Marshal's vessel maintenance and security costs creates a high entry barrier. He posits that this financial requirement often discourages small-scale domestic shippers from enforcing valid claims against well-capitalized foreign ship owners.[45] Moving from pre-arrest barriers to post-judgment distribution, Enejere reviews how courts prioritize claims when an arrested vessel is sold. His research shows that the Nigerian judiciary consistently places crew wages and seafarer welfare benefits above standard corporate commercial

[41] Olisa Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 45.
[42] Ayodele Adediran, 'The Personification of the Ship in Nigerian Admiralty Jurisprudence' (2019) 12(2) *Journal of Maritime Research* 45.
[43] Ibid 49
[44] Ibid 50
[45] Justus Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133.

claims, which aligns Nigerian law with international maritime labor standards.[46]

Recent procedural updates have changed the academic discussion from historical criticisms to an analysis of modern efficiency. Chuku tracks the impact of the Admiralty Jurisdiction Procedure Rules (AJPR) 2023, focusing on the formalization of electronic filing channels.[47] He points out that allowing PDF applications to be submitted directly via designated email addresses has significantly reduced the time between identifying a defaulting ship and serving the physical arrest warrant. This operational acceleration is further analyzed by Okafor, who explores the historical reluctance of Nigerian judges to accept international Protection and Indemnity (P&I) Club Letters of Undertaking (LOUs) as security for releasing arrested vessels.[48] He observes that while judges traditionally demanded local bank guarantees due to the challenges of enforcing foreign insurance commitments locally, the modern judicial attitude has become more flexible, increasingly accepting LOUs when the plaintiff's counsel explicitly consents. From an international perspective, Idris contrasts the ship arrest regimes of Nigeria and the United Kingdom.[49] He concludes that while Nigeria’s substantive laws under the AJA 1991 match global standards, its enforcement can be delayed by a lack of specialized maritime patrol assets within the Admiralty Marshal's office, whereas the UK relies on highly integrated digital and operational

[46] Peter Enejere, 'Priority of Maritime Liens: Seafarers’ Wages in Focus' (2020) 9(1) *Calabar Law Journal* 40.
[47] Oluwaseun Chuku, 'Electronic Service of Writs in Rem: A Modern Necessity' (2021) 34(3) *Journal of Shipping Law* 77.
[48] Valentine Okafor, 'Letters of Undertaking (LOU) and the Nigerian Judiciary' (2016) 7(3) *Port Harcourt Law Journal* 164.
[49] Ahmed Idris, *Comparative Admiralty Law: The UK and Nigeria Regimes* (Transnational Legal Studies 2019) 112.

networks.[50] The ability to target alternative assets is discussed by Olambo, who evaluates the "sister-ship arrest" doctrine under Section 6 of the AJA 1991. He demonstrates that Nigerian courts routinely look past complex shell company structures to establish true beneficial ownership, allowing claimants to secure a debt by arresting any ship within the defendant's commercial fleet.

The legal risks of using these powerful remedies are assessed by Amadi, who looks at the consequences of wrongful vessel arrests.[51] He warns that if a claimant executes an arrest order maliciously or without a valid *prima facie* basis, the Federal High Court will hold them liable for substantial damages to cover port demurrage and lost operational earnings. This financial risk can be worsened by insurance complications, as Bello explains in his study on how judicial detentions interact with marine insurance contracts.[52] He highlights that extended court detentions often trigger default or cancellation clauses in hull and machinery policies.

The limits of court authority over foreign states are explored by Ogundele, who evaluates sovereign immunity when state-owned commercial vessels enter Nigerian waters.[53] His research shows that the judiciary strictly applies the restrictive theory of sovereign immunity, meaning that foreign government-owned ships lose their immunity if they are engaged in purely commercial trade rather than public state functions. Operational safety during litigation is another major concern, as Udo discusses the environmental and safety challenges that arise when arrested ships are left

[50] Emeka Olambo, 'Sister-Ship Arrests under Section 6 of the Admiralty Jurisdiction Act' (2022) 19(2) *Commercial Law Review* 90.
[51] Chidi Amadi, 'Damages for Wrongful Arrest of Ships under Nigerian Law' (2018) 23(4) *The Maritime Lawyer* 89.
[52] Muhammad Bello, 'Marine Insurance Clauses and the Impact of Judicial Detention' (2020) 6(2) *Ibadan Law Review* 201.
[53] Samuel Ogundele, 'Sovereign Immunity and Commercial Ships in Nigerian Territorial Waters' (2017) 4(1) *Unilag Law Review* 22.

abandoned in high-traffic shipping lanes during prolonged legal disputes. He advocates for swift judicial intervention to move these vessels to secure anchorages to minimize the risk of collisions or environmental pollution.[54]

The final stages of unresolved litigation are analyzed by Fagbemi, who provides a critical analysis of the judicial sale process for vessels whose owners fail to post bail.[55] He argues that the court system moves too slowly when executing appraisal and auction orders, which can cause the asset's physical condition and market value to decline before a final judgment is delivered. To address these delays, Asuqu**o** highlights the importance of the 2023 procedural updates, which mandate that applications for arrest warrants be resolved within 24 hours of filing.[56] This time limit has introduced greater speed and predictability into the interlocutory stage of maritime claims.

The role of external agencies is examined by Akinro, who explores the cooperative relationship between the Admiralty Marshal and port regulators.[57] He explains how the Nigerian Ports Authority (NPA) assists the court by actively withholding port clearance and pilotage services from any ship facing an active judicial warrant. This domestic enforcement is often maintained despite contract clauses pointing elsewhere, as Onyema evaluates how courts handle foreign jurisdiction and arbitration clauses.[58] He notes that even if a bill of lading directs that

[54] Festus Udo, 'Environmental and Security Hazards of Abandoned Arrested Vessels' (2021) 13(2) *Eco-Maritime Journal* 142.
[55] Kingsley Fagbemi, 'Judicial Sale of Arrested Vessels: Challenges and Prospects' (2019) 14(2) *Lagos State University Law Journal* 150.
[56] Emmanuel Asuquo, 'Evaluating the Speed of Res Release under the AJPR' (2023) 15(1) *African Journal of International Admiralty Law* 14.
[57] Tunde Akinro, 'Auxiliary Enforcement of Admiralty Warrants: The Role of the NPA' (2020) 8(1) *Nigerian Bar Journal* 112.
[58] Emeka Onyema, 'Foreign Jurisdiction Clauses and Security for Maritime Claims' (2018) 30(4) *Journal of Private and Property Law* 12.

disputes be settled in an international forum, Nigerian courts will still uphold a local arrest to secure the claim before staying substantive proceedings pending arbitration.

The practical resources of the court are evaluated by Ibekwe, who examines the administrative resources available to the Admiralty Marshal's office.[59] He stresses the need for regular institutional funding and dedicated logistics support to prevent arrested ships from attempting to leave port without authorization. In specialized sectors, Dariye looks at vessel arrests within the context of offshore oil and gas operations. His study traces how logistics providers and bunker suppliers use actions *in rem* to resolve contractual disputes involving platform support vessels and offshore drilling rigs.[60]

Security risks also play a role in judicial decision-making, as George assesses conditions in the Gulf of Guinea and their impact on court-detained vessels.[61] He emphasizes that judges must carefully consider security realities when selecting an anchorage site for an arrested ship to protect the vessel and its crew from piracy risks. Finally, Tunde-Olowu reviews post-pandemic developments in maritime litigation, pointing to the growing acceptance of virtual hearings for *ex-parte* applications. This shift has helped reduce administrative delays and streamlined the processing of emergency maritime claims.[62]

Analysis of the literature demonstrates that Nigeria possesses a highly sophisticated and modern statutory framework for vessel arrests, but its

[59] Uche Ibekwe, 'Capacity Building for the Admiralty Marshal in Nigeria' (2021) 27(1) *The Jurist* 85.
[60] Suleiman Dariye, 'Vessel Arrests in the Nigerian Offshore Oil Industry' (2019) 11(2) *Petroleum and Energy Law Journal* 55.
[61] Ifiok George, 'Safety of Arrested Ships in the Gulf of Guinea' (2022) 18(3) *Maritime Security Review* 210.
[62] Oluwatoyin Tunde-Olowu, 'Post-Pandemic Maritime Litigation in Nigeria: Virtual Hearings and Vessel Arrests' (2024) 22(1) *Nigerian Journal of Admiralty Law* 1, 8.

efficiency is limited by a cautious, localised approach to judicial enforcement and security collection. The Admiralty Jurisdiction Act 1991 and the AJPR 2023 successfully provide the legal mechanisms needed to secure claims, pierce corporate veils via sister-ship arrests, and fast-track filings.

However, the maritime sector requires transition from statutory adjustments to institutional and logistical upgrades. The judiciary's traditional preference for local bank guarantees over P&I Club LOUs, combined with an open-ended indemnity system for claimants, increases the cost of maritime litigation in Nigeria.

To improve its standing as a premier maritime hub in the Gulf of Guinea, the Nigerian judiciary must move beyond traditional civil litigation approaches and fully adopt digitized, specialized, and accessible procedures that reflect the fast-paced nature of international shipping.

5.0 MECHANISMS AND GROUNDS FOR ARREST OF VESSELS

5.1 Statutory Grounds for Vessel Arrest

A vessel can only be arrested within Nigerian territorial waters under strict statutory conditions[63] prescribed by the Admiralty Jurisdiction Act (AJA) 1991:

i. Maritime Liens

A maritime lien is a privileged claim that attaches automatically to the maritime property (the ship, cargo, or freight) for services rendered to it or injury caused by it.[64] It attaches to the vessel automatically by operation of law from the moment the cause of action arises and travels with the

[63] Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 7 R 1.

[64] P Enejere, 'Priority of Maritime Liens: Seafarers' Wages in Focus' (2020) 9(1) *Calabar Law Journal* 40, 42.

vessel, regardless of any subsequent change of ownership. [65]Under Section 5(3) of the AJA, maritime liens include:

a. Claims for salvage rewards.
b. Claims for damage done by a ship (e.g., collisions, dock damage).
c. Claims for wages of the master and members of the crew.
d. Claims for master's disbursements properly incurred.[66]

ii. Statutory Rights in Rem (General Maritime Claims)

Unlike maritime liens, a statutory right *in rem* does not attach to the vessel automatically from the birth of the claim.[67] Instead, it arises only when the claimant files an action *in rem* and executes an arrest.[68] Under Section 5(4) of the AJA, a general maritime claim can lead to an arrest if:

a. The claim arises in connection with a ship.
b. The person who would be liable in an action *in personam* (the relevant person) was the owner, charterer, or person in possession of the ship when the cause of action arose.
c. At the time the action is commenced, the relevant person is the beneficial owner of the ship or the demise charterer of it.[69]

5.2 Common Practical Triggers for Arrest:

a. **Unpaid Bunkering Fees**: Failure to pay for marine fuel and oil supplies.[70]
b. **Cargo Damage or Shortfall**: Consignees suing the vessel because goods arrived destroyed, damaged, or incomplete.[71]

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[65] O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 72; see also *MV "Vali Pero" v Sylvanus Transport Ltd* (1998) 10 NWLR (Pt 571) 606.
[66] Admiralty Jurisdiction Act 2004 (n 2) s 5(3)(a)–(d).
[67] J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133, 141.
[68] *MV "S Araz" v Central Organisation for Foodstuff* (2002) 17 NWLR (Pt 796) 244.
[69] Admiralty Jurisdiction Act 2004 (n 2) s 5(4)(a)–(c).
[70] S Dariye, 'Vessel Arrests in the Nigerian Offshore Oil Industry' (2019) 11(2) *Petroleum and Energy Law Journal* 55, 59.

c. **Crew Wage Disputes:** Sailors arresting the ship because the ship owner abandoned them or failed to pay salaries.[72]
d. **Ship Mortgages:** Financial institutions arresting a vessel to foreclose on an unpaid marine mortgage.[73]

5.3 The Sister-ship vs. Associated Ship Distinction

Under section 6 of the AJA 1991, a claimant may execute a sister-ship arrest by arresting any other ship beneficially owned by the person liable *in personam.* However, Nigerian jurisprudence strictly distinguishes between a true sister ship owned by the exact same legal entity and an associated ship owned by an affiliated corporate subsidiary or sister company. Unlike jurisdictions like South Africa which allow full piercing of associated corporate structures, Nigeria courts require proof of ultimate beneficial ownership under Section 6 rather than mere corporate affiliation, preserving traditional corporate personality doctrines unless fraud or sham structures are established.

5.4 The Arrest Procedure under the AJPR 2023

The process of arresting a ship in Nigeria requires strict adherence to the Admiralty Jurisdiction Procedure Rules (AJPR) 2023.[74] A claimant cannot simply seize a ship; they must obtain a judicial warrant through the following steps:

i. **Caveat Search:** The plaintiff checks the Caveat Book at the Federal High Court Registry to ensure no active *Caveat against Arrest* is in force.

[71] O Chuku, 'Electronic Service of Writs in Rem: A Modern Necessity' (2021) 34(3) *Journal of Shipping Law* 77, 80.
[72] P Enejere (n 3) 9.
[73] O Agbakoba (n 53) 8.
[74] Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 7 R 1.

ii. **Filing the Action:** The plaintiff files a Writ of Summons, Statement of Claim, and an *Ex-Parte* Application for a Warrant of Arrest at the Federal High Court registry.[75]
iii. **Supporting Documents:** The *ex-parte* application must be accompanied by an affidavit of urgency showing:
a. The precise nature of the claim.
b. That the vessel is within, or expected to enter, Nigerian territorial waters within three days.
c. That the claim has not been satisfied.[76]

iv. **Indemnity Undertaking:** Under the current AJPR, the applicant must file a written indemnity or provide security (such as a bank guarantee) to indemnify the Admiralty Marshal for all expenses incurred in maintaining, guarding, and insuring the vessel while under arrest or detention.[77]

v. **Execution by the Admiralty Marshal:** Once the Judge signs the Warrant of Arrest, the document is transmitted to the Admiralty Marshal (or his deputies). The Marshal physically moves to the vessel, pastes the Warrant of Arrest on the ship's superstructure (usually the bridge or main mast), and serves copies on the Master, NIMASA, and Nigeria Port Authorities (NPA). The vessel is then legally detained and cannot clear port.[78]

5.5 The Role of Caveats and Interplay with Corporate Insolvency

5.5.1 **Caveat Against Arrest:** A ship owner anticipating litigation may file a Caveat Against Arrest in the Admiralty Registry,

[75] Ibid O 7 R 2; see also O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 82.
[76] Admiralty Jurisdiction Procedure Rules 2023, O 7 R 2(1)(a)-(c).
[77] J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133, 138.
[78] T Akinro, 'Auxiliary Enforcement of Admiralty Warrants: The Role of the NPA' (2020) 8(1) *Nigerian Bar Journal* 112, 115.

undertaking to enter an appearance and post bail within a specified period. Executing an arrest against a vessel covered by an active caveat without good cause expose the plaintiff to damages for wrongful arrest.

5.5.2 **Insolvency Interplay (CAMA 2020 vs. AJA 1991):** Where a vessel owner enters corporate administration or liquidation under the Companies and Allied Matters Act (CAMA) 2020, a key conflict arises between CAMA's statutory moratorium on legal proceedings and an unpaid creditor's right to arrest the res in rem. Nigerian judicial attitude maintains that a pre-existing maritime lien creates a secured interest in the res that survives administration, whereas general statutory claims in rem may be subject to court leave during active insolvency proceedings.

5.6 Mechanics of Bail and Modalities of Release

Bail serves as financial substitution for the physical vessel. Upon acceptance of bail, the claimant's rights transfer from the physical hull to the financial security fund, securing the immediate release of the ship, since a ship is a person under the law and its detention disrupts international commerce, incurring heavy port charges.[79] To prevent economic paralysis, the law provides that the ship may be released upon posting acceptable security. Once this security is accepted, it takes the place of the vessel. The lawsuit then proceeds against the security, allowing the physical ship to be released to continue its commercial voyages.[80]

5.6.1 Modalities of Providing Security (Bail)

[79] V Okafor, 'Letters of Undertaking (LOU) and the Nigerian Judiciary' (2016) 7(3) *Port Harcourt Law Journal* 164, 168.

[80] A Adediran, 'The Personification of the Ship in Nigerian Admiralty Jurisprudence' (2019) 12(2) *Journal of Maritime Research* 45, 49.

The Admiralty Jurisdiction Procedure Rules outline explicit forms of security that the Federal High Court will accept to grant bail to a vessel:[81]

i. Letters of Undertaking (LOU) from P&I Clubs

Protection and Indemnity (P&I) Clubs are mutual insurance associations of shipowners that provide cover for third-party liabilities. When a ship is arrested, its P&I Club will issue a Letter of Undertaking (LOU). The LOU promises that the Club will pay any judgment sum awarded by the court up to a specified cap, in exchange for the immediate release of the vessel.[82] While LOUs are widely used internationally, their acceptance in Nigeria is subject to the discretion of the presiding judge and the agreement of the plaintiff's consent.[83]

ii**. Bank Guarantees**

A bank guarantee issued by a reputable financial institution licensed to operate in Nigeria is the most secure form of bail.[84] The bank binds itself to pay the judgment debt if the ship owner loses the substantive lawsuit and defaults on payment.

iii. Cash Deposits into Court

The ship owner can pay the total claimed amount plus estimated costs directly into the registry of the Federal High Court. This cash remains trapped in an interest-yielding escrow account managed by the Chief Registrar until the final determination of the suit.[85]

5.6.2 Legal Implications of Releasing a Vessel on Bail

[81] *Owners of the MV "Arabella" v Nigeria Agricultural Insurance Corp* (2008) 11 NWLR (Pt 1097) 182.
[82] Admiralty Jurisdiction Procedure Rules 2023, O 8 R 2.
[83] M Bello, 'Marine Insurance Clauses and the Impact of Judicial Detention' (2020) 6(2) *Ibadan Law Review* 201, 204.
[84] V Okafor (n 55) 9
[85] O Agbakoba (n 33) 8.

i. Substitution of the Res: The moment bail is granted and accepted, the security completely replaces the vessel. The claimant's maritime lien or statutory right *in rem* transfers from the physical ship to the financial fund.

ii. Immunity from Re-arrest: Once a ship has been released on bail for a specific claim, the plaintiff cannot re-arrest the same ship for the exact same cause of action, unless the security posted turns out to be fraudulent, completely void, or if the court grants special leave based on extreme circumstances.[86]

6.0 COMPARATIVE ANALYSIS

The efficiency and global standing of Nigeria's ship arrest and release framework can be comprehensively understood by contrasting its operations with the systems used in alternative maritime jurisdictions, specifically the United Kingdom (common law) and South Korea (civil law). While these nations operate within a shared global commercial market, their statutory baselines and judicial approaches to pre-judgment security differ substantially. In Nigeria, the system is governed by the Admiralty Jurisdiction Act 1991 and the updated Admiralty Jurisdiction Procedure Rules (AJPR) 2023.[87] By comparison, the United Kingdom relies on the Senior Courts Act 1981 alongside Part 61 of its Civil Procedure Rules, while South Korea regulates its maritime enforcement through the strict provisions of the Korean Commercial Code and the Korean Civil Execution Act.[88]

A major point of divergence among these jurisdictions is the statutory scope of the "sister-ship arrest" doctrine. Under Section 6 of Nigeria's Admiralty Jurisdiction Act, the Federal High Court is granted broad

[86] *Owners of the MV "Arabella"* (n 9); see also J Nwafor (n 52) 9.
[87] *MV "Vali Pero" v Sylvanus Transport Ltd* (1998) 10 NWLR (Pt 571) 606.
[88] E Asuquo, 'Evaluating the Speed of Res Release under the AJPR' (2023) 15(1) *African Journal of International Admiralty Law* 14, 19.

powers to look past immediate corporate shell companies to establish true beneficial ownership.[89] This allows a claimant to secure an active claim by arresting alternative vessels within the defendant's commercial fleet. This progressive approach is closely mirrored in the United Kingdom, where Section 21(4) of the Senior Courts Act 1981 permits sister-ship arrests provided the relevant person is the beneficial owner of all the shares in the target ship.[90] Conversely, South Korea maintains a highly conservative, text-driven system. Its Maritime District Courts generally limit arrests strictly to the specific debtor ship that incurred the liability, making it significantly more difficult for creditors to pierce the corporate veil or target fleet assets.[91]

The jurisdictions also differ markedly in their judicial willingness to accept alternative security or "bail" to release an arrested vessel back into commercial service.[92] In the United Kingdom, Protection and Indemnity (P&I) Club Letters of Undertaking (LOUs) are universally accepted as standard commercial security. The English Admiralty Court treats these mutual insurance documents as dependable instruments, allowing physical vessels to depart port almost immediately after the security is presented. In contrast, the Nigerian judiciary maintains a more cautious attitude. Under the AJPR 2023, while the court has shown a greater willingness to adapt to commercial realities, the acceptance of a P&I Club LOU remains subject to strict judicial discretion and typically requires the explicit consent of the plaintiff's legal counsel. If this consent is absent, Nigerian judges strongly favor local bank guarantees or direct cash deposits into

[89] A Idris, *Comparative Admiralty Law: The UK and Nigeria Regimes* (Transnational Legal Studies 2019) 124.
[90] Admiralty Jurisdiction Act, Cap A5, LFN, 2004, s 6.
[91] United Kingdom Senior Courts Act 1981, s 21(4).
[92] A Idris (n 36) 9.

court escrow accounts.[93] This cautious approach is taken to an extreme in South Korea, where the local courts heavily favor cash deposits paid directly into national court accounts and rarely recognize foreign corporate insurance undertakings as automatic grounds for release.[94]

Finally, a comparison of the processing speed and digital capabilities of these court systems reveals distinct operational approaches. The United Kingdom operates a highly digitized system where electronic filing via the CE-File registry system allows arrest warrants to be processed and executed within hours during standard court sessions. South Korea has also heavily digitized its judicial framework through national e-court platforms, though the processing time can take several days due to strict evidentiary review requirements under its civil law tradition.[95] Nigeria occupies a middle ground that combines digital rules with physical execution. The introduction of the AJPR 2023 formalized electronic filing by allowing PDF submissions via email and established a strict 24-hour turnaround directive for resolving arrest applications.[96] However, while the initial order is issued rapidly, the actual deployment and physical attachment of the warrant to the vessel mast still rely heavily on the manual logistics of the Admiralty Marshal's office, leaving the framework vulnerable to administrative delays that are largely absent in the UK system.

7.0 SUMMARY OF FINDINGS

7.1 Procedural Transformations under the AJPR 2023: The investigation into the modern judicial attitude towards vessel arrests reveals a clear trend toward procedural modernization and efficiency. The introduction of the 24-Hour Hearing Directive by Order 7 Rule 1 of the AJPR 2023 addresses historical delays by requiring that applications for

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[93] United Kingdom Civil Procedure Rules, Part 61.

[94] Admiralty Jurisdiction Procedure Rules 2023, O 8 R 2.

[95] Korean Civil Execution Act; see also A Idris (n 18) 159.

[96] O Chuku, 'Electronic Service of Writs in Rem: A Modern Necessity' (2021) 34(3) *Journal of Shipping Law* 77, 82.

arrest warrants be determined within 24 hours of filing.[97] This rule allows for emergency hearings on weekends and public holidays to match the continuous nature of international shipping operations.

7.1.2 Simplification via E-Filing: Litigants can now file arrest applications electronically by transmitting PDF documents directly to the Admiralty Marshal's designated email address. Online payment confirmations are accepted alongside these filings, reducing the need for lengthy in-person registry processes.

7.1.3 Support for Arbitral Security: The current framework explicitly confirms that the Federal High Court can order a vessel arrest solely to provide security for pending foreign court or international arbitration proceedings.[98] Claimants no longer need to pursue a full substantive trial within the domestic court to maintain an arrest order.

7.1.4 Protective indemnity Metrics: While the judiciary has shown a greater willingness to adapt to commercial realities, it maintains strict standards regarding the security used to release a ship.[99] Judges strongly prefer local bank guarantees or cash deposits paid directly into court escrow accounts.[100] P&I Club LOUs are generally accepted only if the plaintiff's counsel explicitly agrees to their terms, reflecting a cautious approach toward out-of-jurisdiction enforcement.[101]

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[97] Admiralty Jurisdiction Procedure Rules 2023, O 7 R 1.
[98] Admiralty Jurisdiction Act 2004 (n 19) s 10.

[99] E Asuquo, 'Evaluating the Speed of Res Release under the AJPR' (2023) 15(1) *African Journal of International Admiralty Law* 14, 19.
[100] O Agbakoba, *Maritime Law and Practice in Nigeria* (Commercial Law Publishers 2018) 95; see also Admiralty Jurisdiction Procedure Rules (AJPR) 2023, O 8 R 2.
[101] V Okafor, 'Letters of Undertaking (LOU) and the Nigerian Judiciary' (2016) 7(3) *Port Harcourt Law Journal* 164, 171.

7.1.5 Protection against Wrongful Arrest: The courts actively enforce indemnity requirements to protect ship owners from frivolous or malicious claims.[102] If an arrest is found to have been executed without a clear *prima facie* basis, the court will award significant damages to cover port demurrage and lost operational earnings.[103]

8.0 CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

The judicial attitude toward the arrest of vessels in Nigerian waters demonstrates a commitment to balancing international maritime standards with domestic legal protections.[104] By treating the vessel as a legal person capable of being sued and arrested *in rem*, Nigerian law provides security for domestic and international maritime creditors while curbing process abuse.[105] The mechanism of granting "bail" via bank guarantees or letters of undertaking ensures that the economic utility of the ship is preserved while the claimant's financial interests remain protected.[106] Despite lingering challenges in administrative speed and logistics, the modern trend within the Federal High Court reflects a desire to protect the maritime economy by checking the abuse of court processes while remaining supportive of genuine claims.[107] The introduction of the AJPR 2023 particularly its provisions for e-filing, 24-hour turnaround times, and

[102] J Nwafor, 'The Indemnity Dilemma in Nigerian Vessel Arrest Procedure' (2017) 5(2) *Journal of Business and Property Law* 133, 138.

[103] C Amadi, 'Damages for Wrongful Arrest of Ships under Nigerian Law' (2018) 23(4) *The Maritime Lawyer* 89, 94; see also *MV "Vali Pero" v Sylvanus Transport Ltd* (1998) 10 NWLR (Pt 571) 606.

[104] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 251(1)(g); see also Admiralty Jurisdiction Act, Cap A5, LFN 2004, s 5.

[105] A Adediran, 'The Personification of the Ship in Nigerian Admiralty Jurisprudence' (2019) 12(2) *Journal of Maritime Research* 45, 47.

[106] *Owners of the MV "Arabella" v Nigeria Agricultural Insurance Corp* (2008) 11 NWLR (Pt 1097) 182.

[107] O Tunde-Olowu, 'Post-Pandemic Maritime Litigation in Nigeria: Virtual Hearings and Vessel Arrests' (2024) 22(1) *Nigerian Journal of Admiralty Law* 1, 8.

support for arbitral security has helped in addressing historical administrative delays.[108] While challenges remain regarding logistics and the standardization of alternative security like P&I Club LOUs, the overall direction of the Nigerian judiciary supports a predictable and transparent system for maritime enforcement.

8.2 Recommendations

i. **Creation of specialised Admiralty Divisions:** Judges in Nigeria are periodically posted or transferred across judicial divisions. The Federal High Court should establish dedicated, non-rotating maritime judges in major port cities (Lagos, Port Harcourt, Warri, and Calabar), staffed exclusively by judges who undergo continuous capacity building by the Nigerian Shippers' Council with extensive training in international maritime law.

ii. **Digitization and Interconnectivity:** The foundational structure already exists. NIMASA currently operates the high-tech C4i Centre under the Deep Blue project, which provides real-time satellite and radar tracking of vessels across Nigerian waters. But there is inter-agency rivalry and bureaucratic silos. Real-time digital notifications should link the Federal High Court directly with NIMASA, the Nigerian Ports Authority, and the Nigerian Navy with an integrated API database and a clear Memorandum of Understanding (MOU) to prevent vessels from unlawfully escaping.

iii. **Standardization of P&I Club LOUs:** The Admiralty Jurisdiction Procedure Rules 2023 should be amended to outline specific criteria under which P&I Club Letters of Undertaking are universally accepted as bail. This would eliminate lengthy

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[108] O Chuku, 'Electronic Service of Writs in Rem: A Modern Necessity' (2021) 34(3) *Journal of Shipping Law* 77, 82; see also Admiralty Jurisdiction Procedure Rules 2023, O 7 R 1.

arguments over the form of security and speed up the release of detained ships. This requires zero legislative amendments from the National Assembly. It only requires a procedural amendment to the Admiralty Jurisdiction Procedure Rules, which falls under the rulemaking powers of the Chief Judge of the Federal High Court.

iv. **Designation of Safe Judicial Anchorages:** Security in the Gulf of Guinea has improved significantly following naval deployments and the SPOMO Act enforcement. Setting aside specific maritime coordinates as "judicial Anchorages" gives the navy a focused zone to guard, protecting detained vessels from piracy and keeping commercial shipping lanes clear. The Federal Government, in collaboration with the Admiralty Marshal, should designate specific, secure maritime zones protected by the Navy where arrested vessels can be safely moored. This would mitigate the risk of piracy and reduce high commercial port congestion charges during ongoing litigation.

v. **Legislative Update for Associated Ships:** The Admiralty Jurisdiction Act (AJA) 1991, specifically Section 6, should be amended to allow associated ship arrest, which is being practiced in South Africa, to be practiced in Nigeria to address single-ship shell corporate structures[109]

vi. **Insolvency Priority Rules**: The Federal High Court, in coordination with the Corporate Affairs Commission (CAC), should issue an official practice direction clarifying the legal priority between modern corporate administration under the Companies and Allied Matters (CAMA) 2020 and in *rem* enforcement under the Admiralty Jurisdiction Act (AJA) 1991[110].

[109] Proposed Amendment to AJA 1991, Section 6 (Adopting Associated-ship Principles)
[110] CAMA 2020, s 434; AJA 1991, s 5(3)

Specifically, while section 444 and 480 of CAMA 2020 introduce an automatic statutory moratorium suspending general litigation against distressed companies in administration, this general insolvency shield must not extinguish or indefinitely freeze the enforcement of accrued maritime liens under section 5(3) of the AJA1991. Because a maritime lien constitutes a substantive, pre-existing proprietary right in rem that attaches directly to the vessel hull rather than a mere *personam* debt against the corporate owner. It holds super priority over floating charges and general administrative claims. The proposed directive should confirm that judges will routinely grant leave to maritime lienholders, particularly seafarers claiming unpaid wages and salvors, to execute vessel arrests notwithstanding an ongoing corporate administration.