



SHIA COLLEGE OF LAW

PUBLIC INTERNATIONAL LAW II ***(MODULE-5)***

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MODULE-5

PRIZE COURT

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Introduction

International law Attempts to control lawlessness even in war. The belligerents are permitted to capture and seize the goods and even the vessels carrying contraband of war. Such seizure, however, does not automatically transfer the legal title to the captor state as some sort of adjudication is required. This is done by the Prize Court.

Definition of Prize Court

Prize court is a municipal tribunal established by a belligerent to determine the legality of the prize. The cargo or vessel captured and seized on the high seas or in the territorial sea of a belligerent is designated as prize. Prize court is established by a belligerent and is manned by its own nationals but it applies the rules of international law in adjudication of a prize. Thus, prize court is a special municipal tribunal constituted for deciding questions of maritime capture in time of war.

Functions of Prize Court

Pitt Cobbett has listed the following functions of prize courts:

1. To enquire into cases of maritime capture.
2. To decree condemnation when the capture proves lawful prize.
3. To award restitution and compensation when the capture is not prize.
4. To protect the interests of all against rapine (plunder) and disorder.

Procedure of Prize Courts

The prize courts are free to apply any procedure, but the decisions must be based on international law. They are expected to follow the basic rules of fair procedure, such as observance of the rule of *audi alteram partem*.

Law applied by Prize Courts

Prize courts are municipal courts manned by nationals of the state establishing the court. But these courts apply international law generally. But when there is a conflict between international law and the state law, the court would apply the latter. In the *Zamora case*,¹ the Privy Council held that a British Prize Court had to apply international law even though it conflicted with the order-in-council. But the prize court would always be bound by the British statute. In India, the *Naval and Aircraft Prize Act, 1971* provides that where a matter is not specifically regulated by the Act, the Prize Court shall apply the principles of international law.²

The Zamora

A Swedish ship bound to Stockholm from New York was stopped by a British cruiser. It had a cargo of copper and grains. Copper was contraband and the ship was bound to a neutral port. By an order of the British war department, the copper was requisitioned. On appeal by the Swedish company to the Privy Council, it was held that prize courts are specifically appointed to apply international law and are not bound by an executive order-in-council, which contravenes international law although they are presumably obliged to follow an Act of parliament altering international law.³

REFERENCES

1. (1916) 2 AC 77 (PC).
2. S. 4(4), Naval and Aircraft Prize Act, 1971.
3. Schwarzenegger, the Law of Armed Conflict, vol. II (1968) 365.

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