

TABLE OF CONTENTS

ACKNOWLEDGEMENT.....	7
ÖZET	9
ABSTRACT	11
TABLE OF CONTENTS	13
ABBREVIATIONS	17
I. INTRODUCTION.....	21
A. SUBJECT MATTER, AIM AND QUESTIONS.....	21
1. Role of Insurance	21
2. Role of Marine Insurance.....	22
3. P&I Insurance and the Subject Matter and Aim	23
4. Questions Raised.....	25
B. SCOPE AND STRUCTURE	27
C. APPROACH AND METHODOLOGY.....	28
II. AN OVERVIEW OF MARINE INSURANCE.....	31
A. BRIEF HISTORY	31
B. TYPES OF MARINE INSURANCE OF WHICH P&I IS A PART	33
1. Marine Cargo Insurance.....	33
2. Hull and Machinery Insurance (H&M)	34
3. Protection and Indemnity Insurance (P&I)	35
a. P&I Defined	35
b. Claims Covered.....	37
c. Legal Framework.....	44
i. Statutory Framework	44
ii. Contractual Framework.....	45
aa. In Terms of Insurance Law.....	45
bb. In Terms of Law of Obligations	47
4. Other Types of Marine Insurance	51

III. HISTORY OF P&I INSURANCE	53
A. EVOLUTIONARY BACKGROUND	53
1. Impacts of the Bubble Act 1720 and the Period Theretofore	53
2. Decline of the Hull Clubs and Increasing Liabilities of Shipowners	55
3. From Protection Plus Indemnity Onwards.....	58
4. Reinsurance and the Pooling System.....	59
5. Moving to Offshore Countries	61
B. PROVIDERS AS OF TODAY.....	62
1. P&I Clubs.....	62
a. Legal Structure	62
b. Constitution and Management.....	63
c. Correspondents and Brokers	64
d. Club Membership.....	66
2. Traditional Insurance Companies	68
 IV. ROLE AND FUNCTION OF THE “PAY TO BE PAID” RULE WITHIN THE CONTEXT OF THE DISTINCTIVE FEATURES OF P&I INSURANCE	71
A. THE “PAY TO BE PAID” RULE.....	71
1. The Condition Precedent	71
2. Conditions and Measure of Indemnity	73
3. Doctrine of Subrogation in the Policy	75
a. Legal Doctrines Reinforcing the Indemnity Principle	75
b. Subrogation in Terms of P&I Insurance	76
i. On the Part of Clubs	76
ii. On the Part of Third-Party Claimants	78
4. Problems Arising out of Its Application	79
a. Establishment and the Ensuing Problems.....	79
b. Erosion Towards the 21 th Century	81
c. The Current Situation.....	82
B. PRINCIPLE OF MUTUALITY.....	83
1. Role and Function in the Policy	83
2. Significance on the Part of Third-Party Claimants	86

C. NON-PROFIT-MAKING BASE	87
D. CLAIMS HANDLING	89
V. SIGNIFICANCE OF COMPULSORY INSURANCE AND DIRECT ACTION AND THE IMPACTS OF THE “PAY TO BE PAID” RULE THEREON.....	91
A. THREE-TIERED PROTECTION	91
1. Compulsory Insurance	91
2. Direct Action	93
3. Waiver of “Pay to Be Paid”	93
B. LEGAL FRAMEWORK	95
1. Under International Law	95
a. CLC 1992, FUND 1992, and the Protocol of 2003.....	95
b. BUNKERS 2001	100
c. WRC 2007.....	102
d. HNS 2010.....	104
e. PAL 2002.....	106
f. IMO Guidelines.....	109
g. MLC 2006 and the Amendments of 2014	111
2. Under Supranational Law.....	115
3. Under National Laws.....	115
a. English Law	115
b. Scandinavian Law	118
c. American Law.....	119
d. Turkish Law	121
C. PERSPECTIVE OF CLUBS	123
VI. CONCLUDING REMARKS	127
VII. ACADEMIC SOURCES	135
A. PRIMARY SOURCES	135
1. Convention Based Regimes.....	135
2. National Regimes	137

a.	English Legislation	137
b.	Scandinavian Legislation	138
c.	American Legislation.....	138
d.	Turkish Legislation	138
B.	SECONDARY SOURCES	139
1.	Doctrine	139
a.	Books.....	139
b.	Articles	140
c.	Reports.....	143
d.	Theses	144
2.	Court Decisions.....	145
3.	Other Written Sources.....	146
a.	Club Rules.....	146
b.	Standard Clauses.....	146
c.	Guidelines, Resolutions, and Directives.....	147
d.	Others	148
4.	Websites	148