

IMPACT OF MARITIME LABOUR CONVENTION 2006 ON EGYPTIAN SEAFARERS

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ABSTRACT

Maritime transport industry is an international industry upon which global economy heavily depends as one of the cheapest means of transport of goods between countries. Accordingly, we should take care of those who are in charge of this industry on board and solving the problems they face, where nationalities who work onboard ship are different, and may be different from the nationality of the ship owner and the flag of the vessel in many cases.

This has necessitated the need to rely on international agreements issued by international organizations to regulate the work in this industry, and the organizations that are meant to this industry as the International Maritime Organization (IMO) and the International Labour Organization ILO which issued a number of international treaties, including four treaties have been considered as the four pillars of the maritime transportation industry are as follows (SOLAS 74, MARPOL 73/78, STCW 78, and MLC 2006).

Therefore, this research urges on the definition of the role of the international labor organization as one of the largest international organizations interested in solving the seafarer's problems who work in the maritime transport industry. It also sheds light on the unified maritime labour convention 2006 and its amendments in 2014. This research starts discussing problems facing seafarers at sea and on land. One of these problems is to have suitable and appropriate jobs, as well as acquiring qualifications and adequate training, which increases the efficiency of the seafarers, the right for vacation and the appropriate wages, determining the working and proper rest hours to reduce stress, and keeping them healthy, also accommodation sites, entertainment and the problem of repatriation seafarers.

The research also discusses points of agreement between the maritime labor convention of 2006 and the Egyptian legislation and the shortcomings of the Egyptian legislation. Moreover it tackled the social security regulations of the conventions, the difficulty of applying these regulations, and setting possible solutions for the Egyptian government, which facing difficulties when applying this regulation. The research also discusses the problems resulting from not signing the convention.

KEYWORDS: Maritime Labour, Seafarers

PROBLEMS FACED BY SEAFARERS ON BOARD

The Problem of Lack of Employment Opportunities

The global economic crisis that began in 2008 had negative effects on world trade and thus has affected the marine transport industry and ships' movement, resulting in scarcity of job opportunities of seafarers and especially Egyptians seafarers. Since the government is not following up and keeping away out of that field which if it had been exploited well may result in saving foreign currency benefiting the economy. Because of that negligence, non-

governmental entities controlled job opportunities because of the decreased number of the Egyptian fleet, and thus the seafarers became anxious; moreover, these entities let them feel the dangers of not having a proper job, consequently, deterioration of their morale and fatigue.

Because of the contract system of the seafarer, whether by flight or by time period, it does not provide continuity in the work, and therefore the lack of constant financial income for the seafarer, who in turn will choose between working for long periods on board or get the vacation, after which he does not ensure access to other job opportunity. The controlling authorities exploit the job opportunities by increasing in the number of the seafarers more than job opportunities by compelling them to give up some of their entitlements, and because of the need for job opportunity seafarers have to agree to their terms in fear of not getting another job.

Qualification and Obtaining Certificates

The training and rehabilitation process are one of the difficulties and problems faced by seafarers. Therefore, high level institutes must be provided and to be consistent with international standards for good and recognized training. That is not available probably. Some countries entrusting private institutes for training and certification, some of these institutes qualified to do the training and certification and apply International Standards and many of them are not qualified and are not abiding by the application of international standards as in the Philippines, which has the highest proportion of workers in the sea as stated in the research done by the World Maritime University (WMU) and research Centre of seafarers at Cardiff University about this subject.

The high financial cost that incurred by the seafarers when obtaining or renewing certificates in addition to the family and living expenses while the absence of income where the salary stops as soon as the seafarer get out of the ship.

Type of Food

The quality of the food seafarers eat have a strong influence on them because most of the types of food is frozen and not fresh and the meals are repeated at close intervals causing boredom as well as lots of sugars (sweets, cakes, chocolates) and the likes, can cause high blood sugar quickly to a high level. The negative side of this kind of food in the short term is the rapid decline of sugar in the blood and this causes weakness and instability, difficulty concentrating and in some cases loss of consciousness, eating large meals before bedtime may disrupt sleep. Moreover, religion, nationality and culture difference of the crew is making differences in the quality and the method of cooking food from the nationality of others.

The Problem of Boredom

Because of the repetition of work every day the individual loses desire to work in an acceptable way as it turns into routine, boring and the lack of entertainment. Due to the short berth the ship in port and the reluctance of seafarers from visiting mainland because of fatigue, and high cost or lack of security in some ports or the far distance of ports from cities, consequently, the boredom factor significantly affects the capacity and efficiency of the individual, especially in the maritime transport industry. Due to the development of this industry which makes the amount of work assigned to the individual very little and depends largely on the high and advanced technology used on board ships, for example the command room which is now equipped with equipment does not enable the officer on duty a plenty of time to work as in the past, but he finds the information accessible on small screens. The boredom factor may affect the safety of the ship as a

result of lack of seafarer's concentration in his work.

As a result of boredom, accident rate increases because of the indifference and the existence of the conviction that the individual does not need to concentrate to complete the task and this is because of the repeated daily work, as well as the lack of precision in the work as a result of the easy work done by the individual permanently, so getting bored as well as not performing in the same efficiency which was performed before. The boredom leads to lowering the morale of the seafarers and the unwillingness to do work that may be up to unwillingness to do the journey, and seafarers resort to drinking alcohol which has negative effects on the person who is addicted to it and affects the human relationships between individuals aboard. The disputes occur for lack of awareness and appreciation for the positions, and the absence of individual consciousness may cause the loss of life of a person or his own life.

The Problem of Stress

The problem of stress that affects the seafarers on board is considered one of the most difficult problems facing the seafarers which results from the large quantity of works that are entrusted to the individual as a result of lack of crew members. The stress also results from the large amount of working hours and the small amount of hours of rest because of the large number of ships frequency on nearby ports, where the sailing period is short, the individual cannot take up breaths and get enough rest periods enabling him to continue his work safely. Stress also occurs when an individual does not get enough sleep periods, helping him getting rid of stress in turn.

Due to the stress which causes problems for seafarers on board of ships the international organizations such as the International Maritime Organization (IMO) and the International Labour Organization (ILO) focused on the suffering of the seafarers of long working hours and issued a number of international conventions that determine maximum working hours and minimum hours of rest such as the international convention on standards of training, certification and watch keeping for seafarers and Maritime Labour Convention (MLC 2006).

The Problem of Low Wages

Because of seafarer's need to work and insufficient job opportunities, the ship owners are doing their utmost to reduce the basic salary for seafarers they bargain them on overtime and to work on holidays, and because of the fear of seafarers and their permanent worry about losing their source of livelihood, they are forced to agree to these unfair conditions and these suspicious bargains, and this causes the feeling of injustice and thus their psychological state gets worsen.

The Problem of Wages and Incentives

It was noted that ship owners are doing their utmost to reduce the basic salary for seafarers and after this compromise seafarers have to work overtime hours and to work on holidays. Moreover, seafarer's fear and their constant worry losing their source of livelihood; are forced to agree to these unfair conditions and these suspicious bargains.

The Problem of Annual Vacations

It is one of the most important problems that affect the psychological state of the seafarers. Thus, the seafarer thinks will he be able to return to work again at the same grade and salary, or not? He also thinks of the money that will have to be paid to the broker to travel again to work and annual vacation because the vacation of seafarer is in most cases is

unpaid so the seafarer thinks a lot before he takes his annual vacation.

Fatigue and Stress

The problems caused by stress, are as follows:

- Decline in ability to concentrate.
- Indifference to information.
- The inability to integrate information efficiently.
- Blurry in logical thinking and an inability to make decisions.
- The difficulty of selecting alternatives.
- Low of coordination between crew.
- Occupied with one task and neglecting the rest of the tasks.
- The efficiency of the crew is less effective.
- The increase in reaction time.
- Lack of consistency in performance.
- Memory loss for short-term.

Occupational Safety

Staying safe while you are in the sea is just as important to stay in good health. The exposure of seafarer to injury is 1 out of every 11 person afflicted out of all other professions which is the highest among them, although 550 of those surveyed said they were injured in the last trip (ITF, 2004) This means that the rate of injury and death of seafarers are higher than other professions considered by some as serious as truck drivers and train drivers.

Seafarer's Repatriation

It is one of the most important problems that affect seafarers psychologically and give it a bad career reputation which is a clear violation of workers' rights. Cases of repatriation usually occur when the ship is detained by the suppliers or creditors or port state control. Repatriation means that the owners have nothing to do with the seafarers and leaving the captain without any money for running the ship affairs "The seafarers who are abandoned must be protected and indemnified with adequate indemnification" (ILO, April 2014) protection and indemnity rules.

UNIFIED MARITIME LABOUR CONVENTION 2006

The discussion of seafarers problems are held since the founding of the international labour organization in 1919 in private maritime meetings. The first of these meetings was held in 1920 and it was the first issuance of these recommendations that is directing the national legal codes for seafarers in 1920. The organization continued its approach to try to help the seafarers. The report of the general director of the international labour organization Juan Somavia at the international labour conference in 1999, and his demand for developing an economic and social system which guarantees the basis of security and work while still able to adapt to rapidly changing circumstances in a highly global market competition, forced the international labour office of the world seafarers research center at the University of Cardiff request compile information on changes in the maritime transport industry and institutions responsible for regulating the shipping industry and the investigation of the application of international conventions in the stages of registration as well as in

administration stages.

Then the issuance of the joint maritime commission report (JMC) in its session 29 January 2001 has demonstrated that the international and national legislations are inadequate as well as not reaching the desired level which led to the emergence of the maritime labour convention 2006. A decision was issued on the reconsidering of international labor conventions, which have been adopted unanimously.

The maritime labour convention of 2006 is characterized by viability of application and ease of updating. It provides the seafarer safe and sound working environment in accordance with safety standards, fair terms of work, decent work and decent living conditions on-board ships, health protection, medical care, social measures and other forms of social protection.

Moreover, the tripartite dialogue between shipowners, workers and states which in turn may achieve its objectives if it is carried well under the supervision of a large organization like the international labour organization and according to the principle of equal opportunities and fair competition so the ships that have been ratified by countries that raise its flag on this agreement get best treatment than the ships that have not been ratified by countries raising their flag on the convention.

THE ENFORCEMENT OF THE CONVENTION

The convention is enforced on Tuesday, August 20, 2013 after 12 months on the quorum completion of the convention and that at least 30 member state with a share of 33% at least of the gross tonnage of ships (achieved load condition in 2009). The speed of ratifications and its scope is eye-catching because the conditions for the entry into force of the convention is placed deliberately so that they are the most stringent among all ILO conventions.

ITEMS OF UNIFIED MARITIME LABOR CONVENTION 2006

Title 1 Minimum Requirements for Seafarers to Work on a Ship

- Regulation 1-1 Minimum age
- Regulation 1-2 medical certificate
- Regulation 1-3 training and qualifications
- Regulation 1-4 recruitment and placement

Title 2 Conditions of Employment

- Regulation 2.1 " Contracts of seafarers employment"
- Regulation 2.2 "wages"
- Regulation 2-3 "hours of work and rest hours"
- Regulation 2-4 "right of vacation "
- Regulation 2-5 "repatriation"
- Regulation 2-6 "seafarer's indemnification in case of ship loss or sinking"
- Regulation 2-7 "Levels of Providing ships with crews"
- Regulation 2-8 "career and skills development and chances of seafarers employment"

Title 3 Accommodation, Recreational Facilities, Food and Catering

- Regulation 3-1 accommodations and entertainment facilities
- Regulation 3-2 food and service meals

Title 4 Health Protection, Medical Care, Welfare and Social Security Protection

- Regulation 4.1 " medical care on board and on land"
- Regulation 4.2 "responsibility of ship owners"
- Regulation 4.4 "access to care facilities on land"
- Regulation 4-5 "social security"

Title 5 Compliance and Enforcement

- Regulation 5.1 "flag state responsibility"
- Regulation 5.1.1 "general principles"
- Regulation 5.1.2 "adoption of recognized organizations"
- Regulation 5.1.3 a "certificate of marine science and declaration of Compliancewithmaritime working conditions"
- Regulation 5.1.4 "inspection and enforcement"
- Regulation 5.1.5 "complaints procedures on board"
- Regulation 5.1.6 "maritime accidents"
- Regulation 5.2 "port state responsibilities"
- Regulation 5.2.1 "inspection in ports"
- Regulation 5.2.2 "procedures of dealing with complaints of seafarers on land"
- Regulation 5.3 "responsibilities of supplying labor force"

POINTS OF DIFFERENCE BETWEEN THE TERMS OF THE AGREEMENT AND THE EGYPTIAN LAW

The First Title

- Regulation 1-1 decision of the Minister of Transport No. (140 of 1998) amended by decision 393 of 2006
- Minimum age is 18 years: it is permissible to the age ranging between 16:18 years for training or work in the presence of one of the relatives to work on board.

The difference lies in that the convention approved the minimum age of 16 years while the Egyptian legislations approved minimum age of 18 years, with the exception to the age of 16 years only in the case of training and the presence of relatives of the trainees on the ship, this means that the Egyptian law is more committed to the age condition.

Regulation 1-2

There are serious deficiencies in the Egyptian law which strongly affects justice in redoing a medical examination. That is to say, a medical committee formed to examine for the first time that is being chosen to re-examine again. But this is no longer practiced after the approval of the Egyptian Ministry of Health that the medical commission of the Ministry to tackle the re-examination.

The Egyptian law allows the extension of the medical certificate only until the end of the trip, without specifying a specific time period, while unified maritime labor convention determines it by 3 months duration during which the medical certificate is renewed.

Regulation 1-4

While the conventions obliged not to force the seafarer to pay any amount of money in return for a job; whereas, the Egyptian law doesn't prevent money in return as verbatim.

The Second Title**Regulation 2-5**

There are no laws or decisions regarding:

- Ship owner provides financial guarantees to ensure the return of seafarers to their home countries.
- The maximum periods of service before returning home.
- The state returns back the seafarers and claim the ship owner of costs.
- Transporting 30 kg of seafarer's personal belongings.
- No deducting period of the return trip out of the vacation due to the seafarer.
- Permission of expiration of the seafarer's right of repatriation if not claimed by the seafarer during a period specified by law.

Regulation 2-6

- The legislator tackled the matter of indemnification to the terms of individual labor contract or collective negotiation.
- Law no. 8 of year 1990 states that if there is no evidential text should be reverted back to law of social insurance.

Regulation 2-7

According to the current legal rules it is not determined who is the coordinator of the security on board, although it is actually applied in national practices.

The Third Title:

There is no argument in this title.

The fourth title:**Regulation 4-1**

There is no legal text about the medical report of the crew.

Regulation 4-2

- Egyptian law did not specify the duration of the owner's commitment to treat the seafarer while the Convention stated that it is at least 16 weeks.
- Egyptian law did not state the necessity of delivering the seafarer's purposes to him or to his family, but what happens is a moral obligation of the master as well as the ship crew.

Regulation 4-5

First, according to the provisions of Law No. 232 of 1989 any ship raising the Egyptian flag or any maritime unit does not sail without obtaining the navigation license from the competent maritime administration. As for the granting of the license, there should be some requirements of safety and security for the ship's crew as well as providing the ship owner or its manager a proof of social insurance for seafarers working on board.

Second: Social Insurance in Egypt organized by several laws, including (medical care / patient subsidy / subsidy of work injury):

- Egyptian seafarers who work on board of ships raising the Egyptian flag as well as owned by the Egyptian government or the business sector, Law No. 79 of 1975 is applied on them, which covers (aging, inability and death - Work injury - Disease - unemployment).

- Egyptian Seafarers working on board raising Egyptian flag which owned by members.

The owner of the company makes insurance for his staff at the company and for a few numbers of seafarers who considers them permanent and believed that they would not leave his company.

- Egyptian Seafarers working on foreign vessels.
 - In the absence of bilateral agreements seafarers are subjected to the provisions of Law 50 of 1978 (the Egyptians working abroad) which covers insurance of aging and the inability and death. It is optional and becomes invalid if the insurer does not pay the insurance premium for 6 consecutive months.
 - In the case of bilateral agreements between Egypt and the vessel's flag state, the seafarers shall be subjected to the law of the flag State in accordance with the principle of reciprocity and there are bilateral agreements with Sudan, Cyprus, and Greece which cover the following:
 - The granting of double insurance.
 - Equal treatment of citizens of the two countries regarding the social security legislation.
 - Conversion of cash benefits from the employment country to the country of the citizen, or for any other State which concluded a Convention.
 - Transferring the Subscriptions (in the case of non-pension entitlement) from the employment country to the home country that is being used in calculating the period of subscription to the insured person or covered person.
- Along with Egyptian legislation and bilateral agreements, there are international agreements that covers sickness and work injury insurance which in turn Egypt has joined, they are as follows:
 - Agreement No. (55) Regarding the responsibility of the owner of the ship in cases of seafarer's disease, injury or death which was ratified by Egypt in (04/08/1982).
 - Agreement No. (56) Regarding health insurance for a seafarer which was ratified by Egypt in (24/10/1936).

Third: the social insurance system ensures an extension payment of subscriptions in case of illness or injury until the date of proven inability, which is issued by decision of the General Authority for Health Insurance and determining the

degree of disability, or the issuance of the relevant committee's decision that there is no other available work possible to practice or in case of death, as the case maybe.

Fourth: The study of establishing a special insurance system for seafarers working on foreign ships is taking place depending on an annual subscription basis by the seafarer according to specific segments of the amount of insurance.

Fifth: The Ministry of Transport has a strong belief of the importance of the human element and caring for seafarers and their families. Therefore, the establishing of the Egyptian civil institution is taking place to take care of the seafarer's victims of maritime accidents and their families. The aim of this institution is to provide financial compensation for seafarers or their families in case of sickness and disability or in case of death with the provision of social and cultural care.

Cases that is included in Law of 79 of 1975

Insuring the Worker's life Which Includes

- Work injury insurance when the worker is afflicted by the risk of sickness (medical care and treatment, including medical services as in dental special regulation, hospital stay and surgical operations, and the provision of rehabilitation services).
- Paid compensation: it is due throughout the absence of the worker for work because of illness in full paid wages on the basis of subscription until healing or evidence of disability or death.
- Illness Insurance as in injury insurance.
- Unemployment insurance, which is applied depending on the duration of the subscription of the insured and value of wages.
- Pension when they reach the legal age and is calculated based on length of subscription-wage subscribed on the basis of the pension as well as to family members of beneficiaries upon the death of the insured.

The objectives of Social Insurance Summed up in the compensation of the insured and his family for the loss which incurred and it is represented in the loss of income including (retirement age - inability - injury - disease - unemployment - death).

Part Five

Regulation 5-1

- There is no currently legislation stating the inspection system in accordance with the agreement.
- Until now, Egypt has not signed the agreement and it is under study the terms of the agreement for signature but it is certain that if it is decided to give authorization to one of the entities of supervision regarding the review of rescue Convention, MLC 2006 and granting the certificate of compatibility. The same criteria will be taken regarding the relationship with the authorized international bodies. Currently, there isn't Maritime Labor Certificate as well as the Declaration Compliance and the convention had not been signed yet. Currently, there is no specific procedure for complaints on board ship during the sea voyage.

Regulation 5-2

After signing on the agreement, its articles would be inspected but it had not been done in details. The Egyptian law covers the item of dealing with complaints sufficiently.

Regulation5-3

Egyptian law does not cover this part in a sufficient way and there should be a lot of special changes to monitor the offices of the seafarers work as well as social security for seafarers.

CONCLUSIONS

The study addressed with explanation the problems suffered by seafarers in general and especially in the Egyptian seafarers ranging from job search, whether the national fleet, that its number of ships has decreased in a steady manner making it difficult to find work opportunities for all Egyptians seafarers in the international fleet, which resulted in immediate legislation and international laws to reduce employment opportunities for seafarers of nationalities that are not included in those treaties as well as the political circumstances that led to the decreasing of jobs to the seafarers of some nationalities that are experiencing political turmoil. Then the problems faced by seafarers on board, for example, but not exclusively the labor contracts unfair for the rights of seafarers and irregular payment salaries with inadequate salaries for the nature of the work in the sea in addition to lifestyles on board ships and but also the suffering of the seafarers and their families. Moreover, the event of injury to the person or loss of the ship as a whole as a result of the above mentioned international maritime organization and the international labor organization which is focused on the conditions of the seafarers that were issued several treaties and conventions that are trying to improve the conditions of seafarers under the unified maritime labor convention of 2006 and its amendments in 2014 to explain many of these problems and make up ways to solve these problems by agreement between ship owners and seafarers or their representatives in clear terms. This means that the maritime labor convention 2006 and its amendments is to become the focal point on talking about the maritime workforce, the study addressed is a simplified explanation of the convention compared with what is available from the legislation, laws and local ministerial decisions for achieving the requirements and to keep the items relating to the convention of maritime labor in 2006.

The ratification of the Convention has become an urgent necessity, so if it had not been for creating new job opportunities for Egyptian seafarers, at least maintaining the Egyptian seafarers working on ship currently their jobs. In order not to make a big harm to ships raising the Egyptian flag, even after compatibility certificates issued by maritime inspection. Sooner or later will be the Egyptian vessels will be detained in European and American ports or its owners will be forced raising the Egyptian flag not to visit European and American ports, or change the flag. The three alternatives which are available to the owners of ships, if they were not destroying the shipping industry in Egypt, they at least will have a negative impact on them.

It is clear evident that the impact of application of the agreement on the seafarers would be great and will make it possible to provide a safe workplace for seafarers in line with international requirements. Providing fair labor contracts for seafarers, providing a decent working and living conditions for seafarers on board ships, the right of health protection, medical care and other social protections, as well as an effective and continuous inspection system, and the system for issuing certificates effectively in the IMO conventions are of great importance.

Moreover, the compliance to the flag state inspection on living and working conditions of seafarers, which supported by port state inspection on ships to ensure ongoing compliance among inspection processes.

Although the Egyptian government had studied the provisions of the Convention before approval in 2006, and despite the fact that Egyptian law does not oppose the Convention, but on the contrary, it lead the way in certain points with the exception of the complaint of the medical examination and the period of validity of the medical certificate after its completion. These two points could be resolved very easily; also, the Egyptian social insurance laws are old and well established and easy to modify. Moreover, the convention will give a period of time of 12 months after signing up to enter into force. Besides, the reviewing of how the countries execute the provisions of the convention after two years of the entry into force but we find a strange procrastination and incomprehensible from decision makers for signing on the convention and despite the fact that most of the nine insurance liabilities are non-present in the current system of seafarers where they are treated as irregular labor.

But the following items can be used temporarily to sign the Convention:

- Medical care: This item can be adopted in bilateral conventions and is intended to what companies are doing actually such as contracting with hospitals to treat seafarers as an alternative until the completion of the health care laws.
- Maternity allowance: where there are no women seafarers in Egypt and thus the legislation which deals with maternity in the country's regulation could be adopted for seafarers.
- Sickness benefit: Similarly as in the previous item in bilateral conventions and it means what companies are doing actually of contracting with hospitals to treat seafarers as an alternative until the completion of the health care laws.

RECOMMENDATIONS

- Signing on the agreement without delay, for failure to signing on the agreement represents a threat to the Egyptian vessels from entering the ports of signatory countries as it represents a major problem for Egyptian seafarers working on foreign ships.
- The Egyptian state have to start establishing of an entity responsible for the seafarers in terms of employing - health insurance - social Insurance - search for Labor opportunities - integrated care. This entity is to negotiate with the owners of the ships, provided it doesn't receive any money from the seafarers, the conclusion of contracts for Navy seafarers and setting an article on a percentage of the insurance for seafarers out of the contract value as stated in the agreement. This entity shall deduct a similar percentage from the salary of the seafarer and to be paid to the social insurance and thus the value of the social insurance is divided on the owner and the seafarer. The seafarer makes a mandatory insurance to himself like the liberal professions or such drivers. The Maritime Travel passport is not renewed only after the submission of the insurance policy and which show that the seafarer covered himself insurantly.
- Signing of the Convention without delay, so as failure to sign the agreement represents a threat to the Egyptian ships from entering the ports of signatory countries as it represents a major problem for Egyptian seafarers working on foreign ships.

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