

LEGALFOXES LAW TIMES

IMPACT OF COVID-19 ON THE LIVES OF SEAFARERS

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INTRODUCTION

COVID-19 has compelled us all to contend with the unforeseen circumstances, the meteor that dropped on Earth, with very few backup measures available to deploy, and without knowledge of its worldwide scale and catastrophic environmental, social, and economic effects. The global pandemic caused due to the spread of the COVID-19 virus has greatly affected almost every aspect of human life. In such trying times, the rights of workers engaged in work assume special significance. Therefore, it is also pertinent to shed light on the health risks faced by seafarers.

Nearly 90% of world commerce operates through ship or river transportation and requires seafarers to run the vessels. Consequently, seafarers are central to foreign commerce and trade and the international economy.

HOW COVID-19 HAS AFFECTED THE SEAFARERS?

Seafarers have been collateral victims of the crisis as restrictions on travel have left a swarm of them stranded on ships, or inability to join ships. They are required to control their feelings of anxiety, battle the weariness from extended service, help out similarly tensed and concerned partners on board and ashore working at make-shift workplaces; and liaise with the port state, flag state, and other global specialists. They are required to do this while proceeding to completely play out their obligations as effectively as they did before the pandemic.

The quarantine and the prohibition to enter into sea areas, imposed by various governments around the world have raised serious issues for the crew of the ship and their working conditions. This increasing humanitarian crisis has caused the International Maritime Organisation (IMO) to work ceaselessly. The IMO is searching for UN assistance in its effort to designate seafarers as 'keyworkers' to permit exemptions for crew changes and repatriations. It has also urged state parties to designate seafarers as 'keyworkers' so that it is possible for them to travel between the ships, as that would constitute their workplace.

Many seafarers have been stopped by governments from coming ashore even for a stroll and in a few instances refused emergency health service. Seafarers have always spent long periods being socially distant and away from family and friends. However, the uncertainty of COVID-19 crisis means the seafarers are struggling to sign off from ships and therefore face extended periods onboard. This leads to stress which further leads to a bigger impact on their mental health. Feelings of loneliness, anxiety, and depression weigh down the distressed crew.

Depression and anxiety are debilitating illnesses in themselves and in such uncertain times have a magnified effect on seafarer's mental health leading to periods of helplessness, loss of sleep, and increased fatigue. This is a tough job at the best of time but with added stress of COVID-19, the strain has begun to show. Their coping mechanisms are stretched beyond the breaking point and cases of a nervous breakdown and mental health are being reported alongside suicide attempts. Mental stress, low morale, anxiety, and depressing thoughts may have a negative influence on endurance and concentration while working and this is a growing risk factor.

Shipping establishments are privileged to have technology and means with them to help masters, officers, and crew to assist their mental health and stamina in such enduring times. The rise of suicide incidents on board ships and the growing realization that seafarers go through a higher level of mental ill-health in contrast to workers primarily based on land, is an element that shipping executives cannot overlook, especially in such a vital situation.

REGULATORY MEASURES TAKEN BY NATIONAL AND INTERNATIONAL ORGANIZATIONS

Although most seafarers have courageously accepted their new mandatory obligation to remain indefinitely on board and support the worldwide effort in fighting against this awful pandemic, the inability to change the crew and repatriate them is a formidable and pulverizing situation for ship-owners as well to handle. While there exists international as well as national legal framework that protect the rights of the seafarers, the shipping companies have little choice but to adhere to the national and local restrictions to port access due to the pandemic and the potential risk to public health.

As a consequence of all the problems faced by the seafarers, the International Labour Organization (ILO) has issued an admonition to both governments as well as private employers, imploring them to stick to international labour rights for seafarers and to 'maintain a human-centered approach' during the COVID-19 pandemic. It calls to attention the Maritime Labour Convention (MLC), 2006

which expressly states that every seafarer has the right to a safe, sheltered and secure work environment that conforms to health protection and safety standards, required medical care, and governmental welfare measures. On rights to shore leave, the ILO states that even during the COVID-19 pandemic, sailors can claim shore leave to protect their well-being and health – in tune with the operational necessities of their respective positions.

The International Maritime Organization (IMO) has issued 24 Circular Letters (from 31st January to 25th June 2020) pertaining to many issues faced by sailors and the shipping sector. These Circular Letters cover many issues such as medical care for seafarers, unforeseen delays in delivery of goods, providing sanitation certificates for vessels, ensuring an adequate amount of PPE on board, etc.

The Special Tripartite Committee (STC) of the MLC, 2006 has encouraged the International Labour Office to bring issues to light among governments, including nations that supply labour and port and flag authorities - that the products on which we as a whole depend on, in our daily lives, are shipped via sailors and that these sailors ought to be treated with respect and dignity to guarantee that they can keep on offering their essential services to all of us. The STC also opined that sailors ought to be recognized as essential workers by governments, and be allowed exemptions from any restrictions on travel. In addition to this, governments should empower sailors to join and depart their ships and get back home without any hindrance, while ensuring total compliance with measures aimed at reducing the spread of the pandemic.

The STC stated that it is vital that States permit ships into their ports to unload commercial goods, and that they permit sailors to access medical care on the same standing as citizens of that state, in accordance with national laws. Steps likewise ought to be taken to guarantee that visitors on ships are carefully observed and given all required Personal Protective Equipment (PPE) to reduce the possible danger of contagion.

Such a proactive approach is also needed in another case-to support sailors who may face difficulties in taking up training or more qualification courses. States should collaborate with other maritime countries to prolong the validity of sailors' licenses for a fixed duration of three months, until further notice when the conditions allow such a scenario. The European Commission released the 'Guidelines on Protection of Health, Repatriation and Travel Arrangements for Seafarers, Passengers and Other Persons onboard Ships' which is designed to protect both the safety, travel and material requirements of individuals onboard ships plying around the multitude of ports in the 27 European Union nations.

The World Health Organization (WHO) has exhorted nations to ensure that limitations on global travel ought to be founded on evidence and verifiable information and should be proportionate with the level of risk for each nation. The WHO is working intimately with specialists across the globe, governments and other international organizations to quickly expand scientific know-how about COVID-19, to follow the spread and level of transmission of the infection, and advise nations on measures to secure their citizens' health and contain the spread of this virus without superfluous impedance to global travel. The WHO has firmly urged governments to encourage the movement of vessels, including mooring, changes in crew compensation, and regular disinfection of vessels – followed up by issuance of sanitation certificates. It has also urged Governments to guarantee that data with respect to the suspending of port services is conveyed to all stakeholders in the international shipping community, including seafarers.

The International Transport Workers' Federation (ITF) and the sailors' unions affiliated with it have been helping sailors to practice their right to quit working, disembark ships, and proceed home. This new methodology, which can be profoundly problematic to global trading, comes in the aftermath of a lack of action by governments to classify sailors as 'key workers', and thereby absolve them from COVID-19 travel limitations and expedite the repatriation of around 200,000 sailors who have been stranded at sea.

The International Chamber of Shipping (ICS) drew attention to the fact that added worry due to COVID-19 may affect psychological well-being and stated that governments as well as private corporations should notice that there was no mental health crisis among seafarers along with the already existing physical health.

As per the International Health Regulations (IHR) of the World Health Organization, ships will not be refused 'free pratique' by the IHR state parties for public health reasons, i.e., permission to enter a port, embark or disembark discharge or load cargo or stores. However, the IHR state parties may subject granting free pratique to inspection, if a source of the contagion is found on board, conduct necessary, disinfection, decontamination, disinfection, or deratting or other measures necessary to prevent the spread of the virus.

In India, the Union Ministries of Shipping, Health, and Family Welfare and Home Affairs have released a joint Standard Operating Procedure (SOP). As per this SOP, any sailor would be permitted to sign-on at the port of embarkation only after the test is conducted for COVID-19 is performed and the result is negative. If the test result is positive, the issue comes solely under the jurisdiction of the Ministry of Health and Family Welfare.

CONCLUSION

As much as governments and international organizations have taken efforts to tackle head-on the problems faced by seafarers due to the current global pandemic (and this is indeed commendable), one thing which is lacking, is an increased co-operation between international organizations and between various national governments. The rampant spread of the virus knows no boundaries, and the same applies to the difficulty faced by seafarers across the globe. Therefore, it is felt that greater coordination between nations on a bilateral level as well as on multilateral platforms such as ASEAN or SAARC can go a long way in addressing the concerns.

It is highly pertinent that we remember the idea that 'our fight is against the disease, and not against those whom the disease has affected'. Screening and medical testing of travelers is mandatory in the current scenario. It is also true that governments should not view with levity the risk carried by persons coming from somewhere where there have been positive cases of COVID-19. But, an equally important facet is to imbibe the idea that distancing all those who come to shore and treating them as outcasts is not the way forward either. This will do greater damage in the long haul. What should be followed is proper adherence to international regulations and guidelines – a solid framework on which aggressive medical testing is done and those at risk are afforded the care they deserve.



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