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Myth and reality on human rights at sea in the era of globalization

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The twenty-first-century maritime sector, shaped by globalization, technological advances, and economic shifts, faces persistent gaps in safeguarding seafarers' rights. Despite international efforts like the ILO's Maritime Labor Convention 2006, their effectiveness is undermined by the industry's polycentric governance, weak compliance mechanisms, and the isolated nature of seafaring profession. Through a review of regulatory gaps and case studies, it demonstrates how current standards fall short in practice, arguing that their decentralized structure and weak implementation fail to address systemic risks. This study proposes supplementary measures to strengthen accountability and compliance, emphasizing the need for coordinated action to protect seafarers in an increasingly deregulated industry.

KEYWORDS

seafarer, international labor standard, maritime governance, maritime labor convention, globalization

1 Introduction

International trade plays a crucial role supporting every nation's economy, and shipping is the life blood of world trade and the global economy (Heng, 2007). Its primary function is to transport goods from where their utility is low to a place where it is higher (Branch, 2007). Compared with other modes of transport, shipping is the cheapest means. Around 80 per cent of world trade by volume is carried by over 50,000 merchant ships (International Chamber of Shipping, Shipping and world trade, 2018). More recently, advanced technology has made shipping more efficient and unit costs of transportation much lower. For instance, shipping costs account for only around 1 per cent of the shelf price of a television set and 0.6 per cent of a vacuum cleaner (IMO, 2011). If it were not for the maritime industry, the import and export of goods would not be possible at the current scale, and global economy could not function adequately. Clearly, seafarers are the workforces who have enabled economic prosperity for countries and a life of ease for average consumers.

Shipping is a highly internationalized sector. Despite the recent rise of nationalism in Western countries—evidenced by Brexit in the UK and Donald Trump's "America First" policy—globalization has long been the dominant trend in the world economy. Over the past six decades, most countries have reduced tariffs and trade barriers through successive negotiations under the General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO). This liberalization has spurred growth in global

trade and foreign direct investment (FDI), fueling economic expansion worldwide. However, it has also raised concerns about rising inequality, the exploitation of workers in developing countries, and the uneven distribution of wealth between labor and capital (Bende-Nabende, 2017). The maritime sector, in particular, has grown even more liberalized and globalized over the past thirty years. Ship management—from financing to crew recruitment—can now be coordinated seamlessly across borders, aided by technological advancements. Ships have grown larger, crews smaller, and ports more remote (Zhang, 2016), creating a highly efficient logistics system that maximizes profits for shipowners. Yet these efficiencies have come at a cost, introducing new challenges for seafarers and their labor rights.

Beneath the gleaming surface of global maritime trade lies a troubling paradox: while seafarers form the indispensable backbone of the world economy, their working and living conditions continue to deteriorate (IMO, 2010a). As starkly observes, without their contributions, global commerce would collapse—leaving half the world frozen and the other half starving. Yet modern consumers, accustomed to the seamless availability of goods transported across oceans, rarely acknowledge this invisible workforce that makes their prosperity possible. The maritime profession remains shrouded in myth, its harsh realities obscured by legal frameworks that ostensibly protect seafarers' rights. The adage “out of sight, out of mind” perfectly captures society's collective blindness to the profession's systemic challenges.

This situation has been exacerbated by contemporary economic forces. Port operations have become ruthlessly efficient, drastically reducing shore leave—seafarers' vital connection to terrestrial life (Zhao et al., 2023). Meanwhile, globalization has enabled the proliferation of flags of convenience (FOC), severing the traditional “genuine link” between vessels and nations. This system allows shipowners to circumvent national labor protections, avoid taxes, and exploit a globalized workforce while evading organized labor resistance. The human cost is profound: FOC-registered ships create floating enclaves of isolation, disconnecting crews from familial, social, and national support systems. Consequently, seafarers' rights exist primarily on paper, their practical enforcement contingent on employer goodwill—a precarious arrangement that leaves workers fundamentally disempowered.

Despite legal efforts to strengthen international labor standards through port state controls, seafarers—a vital yet marginalized workforce—continue to face precarious and often deplorable conditions. This paper examines maritime labor regulations and their enforcement, arguing that existing regimes fail to adequately protect seafarers' rights. Isolated at sea with minimal state oversight, seafarers lack meaningful safeguards for their well-being. From a social constructionist perspective, stronger measures are needed to ensure decent working conditions. By critically analyzing global maritime governance, this paper identifies key gaps in both legal frameworks and their implementation.

This article begins with a brief analysis of the contemporary shipping industry, outlining its evolving dynamics and associated risks. The second section examines the distinct nature of seafaring labor and the unique challenges faced by seafarers. Next, it provides

a comprehensive review of the legal frameworks governing seafarers' rights. The article then critically assesses the implementation and enforcement of international standards, particularly those under the Maritime Labor Convention, 2006. Finally, it argues that the constrained maritime environment inherently limits the effective enforcement of seafarers' rights, necessitating supplementary measures to ensure their protection.

2 Issues causing problems in maritime trade and labor

2.1 Legal fragmentation

Maritime trade is international and cheap but complex because it involves players from various countries. To seek the lowest cost and highest gain, capital, labor and other factors of production move freely between countries of origin and destination. Distinct from the traditional maritime hierarchy, today's modern globalized maritime society is network-bound and cross-functional (Roe, 2013). Shipping activities are governed by a multi-tier governance/jurisprudence (see Table 1) which means “a system of continuous negotiation among nested governments at several territorial tiers- supranational, national, regional, and local, as the result of a broad process of institutional creation and decisional reallocation” (Marks, 1993). Each tier of jurisdiction is responsible not only for the policy-making corresponding to its tier but also for implementing and enforcing it. Though sovereign states continue playing a significant role, today's maritime sector is governed at multiple tiers with various centers national, regional and local authorities are involved, with simultaneous cooperation between public and private sectors (Adolf, 2012). Namely, the multi-tier structure of the maritime jurisdiction and governance is polycentric.

Table compiled by the authors. Source: Adapted from Roe, Shipping, Policy and Multiple Governance (Roe, 2007); according to our field trip to the headquarters of the IMO in London in 2019, a member of the IMO staff estimated that there are approximately 30 inter-government bodies (the UN agencies or programmes) dealing with shipping; thus, the above Table is illustrative but not to provide an exhaustive list of governing bodies concerning shipping.

In the global economic and political environment, shipping is perceived both as an eminently national and a highly international activity and regulations are historically an integral part of it. Under international law, on the one hand, a vessel derives its national characteristics from the country in which it is registered and hence flies the flag of that country; on the other hand, all vessels, whatever countries of their registration are, enjoy the ‘freedom of navigation’ internationally for commercial purposes.

2.2 FOC impact on maritime labor law

Shipping remains an extremely competitive, complex and volatile business. There is fierce competition in at least two dimensions. The

TABLE 1 Multi-tier structure of laws governing maritime jurisdictions and governance.

Jurisdiction	Institution	Examples
International tier	<ul style="list-style-type: none"> The United Nations (UN); Organization for Economic Co-operation and Development (OECD) 	<ul style="list-style-type: none"> International Maritime Organization (IMO); International Labor Organization (ILO); United Nations Conference on Trade and Development (UNCTAD); OECD
Supranational tier	<ul style="list-style-type: none"> The European Union (EU); Association of Southeast Asian Nations (ASEAN); The United States-Mexico-Canada Agreement (USMCA) which will replace the North American Free Trade Agreement (NAFTA) 	<ul style="list-style-type: none"> Directorate-General for Mobility and Transport (DG-TREN); Directorate-General for Competition (DG-COMP)
National tier	<ul style="list-style-type: none"> IMO Member States; EU Member States 	<ul style="list-style-type: none"> UK; Greece; USA; China
Local tier	<ul style="list-style-type: none"> City; Port 	<ul style="list-style-type: none"> Plymouth; Rotterdam; Pusan

first is the market pressure due to the internationalized, global nature of the maritime sector. The shipping market fluctuates with the growth and downturn of the world economy and trade. For example, following the global economic recession in 2008, the global shipping industry underwent a downturn (UNCTAD, 2018). This is due to numerous reasons. Firstly, the inconsistency and decrease in the freight market have a negative influence on shipping companies, for whom the only way to survive is to cut costs, significantly affecting the maintenance of the ships and the working and living conditions on board (Dimitrova, 2010).

Moreover, countries also compete in the regulatory areas. Historically, merchant fleets registered under their national flag and operated as an extension of commercial activities, power and prestige, of the flag state (Mcconville, 1997). However, since the sixteenth century, registering and operating tonnage under a foreign flag has been used as another device. For example, Panama established an Open Registry (OR) in 1922, offering a legal basis for vessel registration to non-national companies to register the vessels which they owned or controlled in return for stipulated fees (Mukherjee and Brownrigg, 2013). Liberia established a similar mechanism in 1948. Subsequently, many countries have begun to provide similar OR services, even if they do not have the power or administrative machinery to effectively impose, monitor and implement national and international regulations. This can include countries that may not necessarily have the will or the power to regulate fleets and shipping companies (Mansell, 2009).

With an increase in the number of countries offering OR, many shipowners transferred their ships to these countries to reduce their operation costs, as well as to minimize their obligations under international standards. In the early 1950s, the term FOC was introduced by the International Transport Workers' Federation (ITF) to define a state 'where beneficial ownership and control of a vessel is found to be elsewhere than in the country of the flag the vessel is flying' (ITF, 1999). The advent of the FOC system has resulted in deregulation in the global maritime sector (Alderton and Winchester, 2002). This process of deregulation was exacerbated by

the uneven economic development of countries and regions and an uneven international regulatory terrain whereby, developed countries, such as the US and Canada, maintained stringent regulations, whereas open registry countries usually have loose regulations and implementation. Furthermore, many traditional maritime nations, such as Norway, Greece and Denmark, adopted similar policies, such as the introduction of a second international registry, which led to extensive deregulation to prevent loss of fleets (Lohinov et al., 2024).

The disconnection between financial ownership, operational control, and jurisdictional enforcement in maritime labor law creates a fragmented regulatory landscape that undermines the protection of seafarers' rights (Zhang and Tang, 2021). Financially, ships are often owned by shell companies registered in tax havens, while operational control rests with management firms in another country, and the vessels themselves fly the flags of convenience (FOCs) from states with weak labor oversight (Zhao et al., 2021). This complex web of actors allows shipowners to evade accountability, as no single jurisdiction bears full responsibility for enforcing labor standards. Flag states, which should primarily regulate working conditions, frequently lack the capacity or incentive to monitor compliance, while port and coastal states face legal limitations in intervening beyond basic safety inspections (Zhang et al., 2020). As a result, labor violations—such as wage theft, excessive working hours, and unsafe conditions—persist due to this systemic misalignment between economic interests, operational realities, and legal enforcement mechanisms. Strengthening maritime labor rights requires closing these gaps through binding international cooperation and shifting liability to all entities in the shipping chain (Gekara, 2008).

A multi-faceted approach, combining robust international regulation with strengthened national oversight, is essential to mitigate the challenges posed by FOC challenges. Primarily, port states must exercise their authority more aggressively under the framework of Memoranda of Understanding on Port State Control (e.g., the Paris MoU, Tokyo MoU). By conducting more frequent and stringent inspections targeting high-risk FOC vessels and systematically detaining or banning substandard ships, they can create a powerful

economic disincentive for owners who prioritize cost over compliance. Furthermore, the ITF continues to play a critical role through its campaign for collective bargaining agreements and its inspection network, which helps enforce seafarer rights. However, long-term solutions require empowering the IMO to enforce stricter criteria for granting flags, including demonstrable proof of a genuine link between the vessel and the flag state, and the implementation of transparent, auditable oversight mechanisms to ensure that open registries can effectively enforce international conventions on all their registered vessels.

Ultimately, addressing the root causes of FOC usage necessitates a shift in responsibility across the entire maritime supply chain. Major charterers, cargo owners, and financial institutions must adopt and enforce stringent due diligence policies, refusing to engage with shipowners who utilize flags with poor safety and labor records. This market-based pressure, often driven by corporate social responsibility and the demands of consumers and investors for ethical supply chains, can be as potent as regulatory measures. Simultaneously, the focus must remain on the seafarers themselves. This includes establishing stronger mechanisms for seafarers to report abuses without fear of retaliation and creating international support structures for legal and welfare assistance, thereby ensuring that the individuals who power global trade are not left vulnerable to the regulatory failures of the FOC system.

2.3 The relocation and emerging shortage of international maritime labor

Owing to the increasingly fierce competition explained above, various cost-cutting strategies have been employed in the maritime industry as contrivances for survival (Tang and Zhang, 2021). Usually, these savings are made by reducing the size of the crew and sourcing crews from emerging economies where salaries are lower and training standards inconsistent. These reduce expenditure on manning and safety budgets, with minimal compliance with international regulations and standards (Zhang and Zhao, 2017).

The center of gravity of the maritime labor market continues to shift from the traditional maritime countries of the Western world towards the Far East, Indian sub-continent and Eastern Europe (Progoulaki, 2008). To preserve national merchant fleets and improve seafarer's employment rate, traditional maritime countries have wavered between protectionism and a shrinking national maritime workforce. They have introduced a series of regional rules and regulations to protect the domestic market and jobs (Cha, 2016) and prompted international bodies (e.g. IMO, ILO and UNCITRAL) to further tighten operational standards, which indirectly suppresses the shipping industry in developing countries (Zhang, 2013).

Another new tendency of maritime labor is the emerging shortage. Despite the recent global economic downturn and the resultant reduction in demand for maritime services, there remain significant shortages of officers, particularly for certain grades and

ship types, such as technologically advanced service vessels (Zhang and Drumm, 2020).

3 The difficulties faced by maritime labor

Although maritime labor has made critical contributions to global trade and improved the lives of average consumers, the seafaring profession is often associated with negative attributes—such as hazardous working conditions, long hours, low pay, isolation, and hardship. These factors have historically made onboard life a male-dominated environment. While this portrayal does not reflect the full reality, it remains the prevailing public perception of the profession.

3.1 The special characteristics of maritime labor

Life at sea imposes profound and often overlooked hardships on seafarers, as documented by a growing body of ethnographic research and worker surveys (Zhang et al., 2019). Physically demanding labor—including long hours overtime, seven days a week—is compounded by hazardous conditions, from extreme weather to exposure to toxic substances, with inadequate medical care available onboard (Zhang and Zhao, 2017). Psychologically, prolonged isolation and confinement in cramped quarters fuel anxiety, depression, and suicidal ideation, exacerbated by chronic sleep deprivation and the industry's pervasive culture of silence around mental health (Exarchopoulos et al., 2018). Family separation is particularly devastating, as seafarers miss milestones like births and funerals while facing unreliable communication due to costly or restricted internet access (Zhang and Zhao, 2014). Recent studies also reveal structural abuses: wage theft, denial of repatriation, and “abandonment” in foreign ports (Zhang and Zhao, 2015). These realities contradict the industry's romanticized image, exposing a system that prioritizes profit over welfare, leaving crews trapped between the violence of exploitative contracts and the indifference of weak regulatory regimes. Ethnographic accounts describe seafarers as “floating prisoners,” their suffering rendered invisible by maritime exceptionalism and supply chain opacity (BIMCO/ISF, 2015). Addressing these issues requires not just policy reforms but a fundamental reimagining of seafaring labor as embedded in globalized systems of precarity.

These realities make maritime labor fundamentally different from land-based occupations. Seafaring is an exceptionally demanding profession, characterized by unique pressures and inherent risks (Mitropoulos, 2010). Unlike most shore-based jobs, a ship serves not only as a workplace but also as the seafarer's home—where they eat, sleep, and socialize, isolated from land and society for extended periods. Life onboard is overwhelmingly dominated by work, which is complex, prolonged, and highly stressful. For instance, seafarers seldom enjoy weekends or public holidays and frequently work overtime to meet the demands of global maritime logistics. Additionally, they routinely

handle hazardous cargo and respond to emergencies at sea. Due to these harsh working and living conditions, opportunities for relaxation are severely limited, further compounded by the scarcity of recreational options available onboard.

Working in a confined and socially removed environment at sea imposes further challenges for seafarers' rights. Since the ship is also the place where seafarers live, sleep and socialize, after the working day is over, the seafarer does not go home but continues to stay on board. Ships can, therefore, be considered a "complete institution" which encompasses their whole being (Goffman, 1961). Even when the ship calls at a port, seafarers have very limited opportunity to communicate with the outside world. Despite enormous technological developments, seafarers are not a party to the benefits of this technology. On the contrary, they now have fewer opportunities to go ashore due to increasingly shorter port stays and faster turnarounds. Being confined on the ship, any infringement of seafarers' rights is more likely to be invisible to public attention.

Seafarers tend to get fatigued when working on board because of the largely physical nature of their work, but there are limited means of relaxation available and less quality sleep. Minimal manning, rapid turnarounds, short sea passages, adverse weather and traffic exacerbate these problems. These burdens and pressures on seafarers are compounded by extra paperwork, various drills, long working hours and insufficient recuperative rest (Willis et al., 2023). Operating in a secluded place, seafarers must be self-sufficient and able to improvise. Despite there being a regular work and rest hour regime on board, erratic ship arrivals and departures from ports result in the inability to adhere to schedules. It is common for nearly all ship's crew to be called up for arrivals and departure port duties, thereby interrupting the duration of their rest hours.

Despite the modern improvements in shipboard construction, equipment and environmental standards, seafarers still face a high risk of loss of life, injury, injustices and sometimes inhumane treatment (Smith, 2008). The loss of life at sea, even for a sea-going country like Britain, is significantly higher than in other land-based hazardous occupations, including coal mining and railway work (Roberts and Marlow, 2005). Researchers claim that Seafarers are at an increased risk of developing cardiovascular diseases (CVDs), potentially due to a stressful working environment and behavioral risk factors (Dohrmann et al., 2024). On German-flagged container ships, a systematic analysis of 14,628 medical entries from 95 medical log books of 58 container ships under German flag from 1995 to 2015 was performed. The high proportion of health complaints and accidents among seafarers shows that there is a need to optimize medical care at sea and accident prevention (Bilir et al., 2023). A more recent research suggests that seafarers are exposed to several physical and psychosocial stressors. For example, seafarers are also commonly exposed to post-traumatic stress disorder such as piracy, accidents and threats (Lucas et al., 2021). Detailed information for the Swedish merchant fleet demonstrates a much higher maritime accident fatality rate compared to shore-based industries (Larsson and Lindquist, 1992). The comparison between the deaths of Polish seafarers and the mortality in non-seafaring men of productive age reveals a similar conclusion (Jaremin et al., 1996).

It is also noteworthy that the infringements of seafarers' rights in developing countries tend to be more serious, and deaths at sea could be underreported for many reasons (Carré et al., 2020). Studies reveal that seafarers from the Global South—often recruited through opaque manning agencies—are more likely to experience wage theft, unsafe working conditions, and contract manipulation than their counterparts from wealthier nations (Figueroa et al., 2020). Deaths at sea are frequently underreported or misclassified as "natural causes" due to lax oversight, the absence of independent autopsies, and pressure on families to accept minimal compensation (Nayar et al., 2025). For instance, Filipino and Indian seafarers—who comprise nearly a third of the global workforce—report being forced to work despite untreated illnesses or injuries, with fatalities sometimes dismissed as "heart failure" without investigation (Gregory, 2012). The lack of transparency is further exacerbated by FOC registries, which enable shipowners to evade accountability while crewing vessels with low-wage labor from vulnerable regions (Saksela-Bergholm and Arasanz, 2020). This systemic neglect reflects broader inequalities in maritime governance, where the lives of workers from developing countries are treated as disposable costs rather than protected rights (Lillie, 2008).

3.2 The unique relationship between seafarers and employers

For the seafarers, a shipowner provides not only the means of production but also the means of livelihood, including accommodation, food and recreational facilities. To a certain extent, their role is like landlords of the feudal system, with intensive control over employees' labor and living standards. Nevertheless, physical distance hinders the effective supervision of the situation on board effectively. For the employees, as an isolated group far from land, most seafarers, particularly those from developing countries, are unable to organize effective trade union activities to bargain with their employer for improved standards. Evidence indicates that some shipowners behave irresponsibly while looking solely for quick profits and are prepared on that account to take high risks while applying the lowest standards of employment (Couper et al., 1999). Meanwhile, seafarers and their families are likely to suffer additional harm, including victimization, marginalization and stigmatization (Shan, 2018). In the process of accessing justice (Chen and Shan, 2017) to defend their rights, seafarers usually experience significant institutional hurdles because of the polycentric governance and lack of sovereign protection from their home countries and the unwillingness of port states to intervene (Fitzpatrick and Anderson, 2005).

In the meantime, shipowners are aware of the importance of having committed and competent seafarers. The quality of the maritime trade ultimately depends on the quality of the people who are competent, committed and consistently provide safe and efficient services while preventing potential losses. A skilled, loyal and well-motivated seafarer is essential to reducing operational costs and increasing efficiency, safe operations and protecting the

owner's investment in valuable vessels and equipment. Therefore, it is of utmost importance to improve the condition of seafarers and the image of the industry so that those who serve in it can have a safe, rewarding, and fulfilling career (Barnett et al., 2009). Comfortable working conditions on board are essential for good relations between employers and seafarers and for attracting and retaining qualified workers (ILO, 2001). It has been known to many shipowners that good salaries and decent working conditions are prime motivations for youngsters who choose a career at sea. Good working and living conditions are also essential ways of encouraging seafarers to spend a prolonged time at sea rather than to make a career shift to land-based occupations, despite the social isolation and separation from their families which shipping entails (Dimitrova, 2010). On the contrary, stress, fatigue and a lack of workplace justice can lead to reduced performance which can bring about environmental damage, loss of life and property and reduced working lifespan among highly skilled seafarers who are already in short supply (Shan, 2017).

In recent years, concerted efforts by unions, advocacy groups, and progressive shipping companies have led to tangible improvements in seafarers' welfare and representation. For example, technological advancements have been transformative—over half of commercial vessels now offer subsidized Wi-Fi, enabling crews to maintain vital family connections and access mental health services remotely (Wu, 2024). Industry initiatives like the Seafarer Happiness Index have driven concrete changes, including standardized grievance mechanisms on 40% of major carriers and mandatory welfare committees under the revised Maritime Labor Convention (Kraemer, 2024). In fisheries, the ILO's Work in Fishing Convention has been ratified by 24 nations, introducing binding requirements for rest periods and medical care (https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312333). While disparities persist—particularly for migrant fishers and informal workers—these developments mark a paradigm shift from treating seafarers as invisible labor to recognizing them as rights-bearing workers in global supply chains (Tang, 2024).

3.3 Unfair treatment of seafarers

Labor relations in the seafaring sector are inherently imbalanced due to the unequal distribution of power between workers and employers. Unlike land-based industries, where employees can seek protection through collective resistance and union-coordinated strikes, seafarers operate under a distinct employment dynamic. Shipowners not only provide wages but also control essential living conditions—including accommodation, food, and recreational facilities—thereby reinforcing dependency and limiting workers' bargaining power. This unique structure creates a pronounced disparity in employer-employee relations compared to shore-based professions.

Seafarers rarely use strikes and there are a great number of obstacles to bargain for fair treatment. Firstly, the geographical dispersal of the seafarers who are separated in the world and isolated in floating ships for the most of time, makes it very

difficult to organize unions with a large enough scale to bargain with their employers. At the same time, sub-contracting, temporary contracts and semi-formal employment also contribute to precarious employment relations between the seafarers and employers. Secondly, as a global industry, shipping is subject to multinational jurisdiction and multilevel governance. This complicates the work of the trade unions, if there is one, to support seafarers effectively when circumstances require it. Thirdly, for ships with multinational crews, there could be a conflict of interest between different unions representing crew from different countries, nationalities and ranks. This problem is even more complex for seafarers nowadays, because the crew and officers usually belong to different unions, regardless they are of different or the same nationality. Seafarers on 'per voyage' contracts can get blacklisted for contacting trade unions, such actions deemed by manning agents as 'troublemaking' (Samson, 2003). In addition, the usage of the FOC system, competition among different labor-supplying countries and illegal and fraudulent recruitment practices further prevent the seafarers from exercising their collective and individual rights.

Furthermore, maritime labor can easily be exposed to criminal prosecution, increasing their already vulnerable position. Firstly, they are not always familiar with the national criminal law of foreign countries, since they frequently travel from one nation to another. Secondly, a growing number of seafarers have been arrested, imprisoned or detained under a variety of national 'criminal laws' and other proceedings for extensive periods without due process or the necessary remedies for the accused. Masters, chief engineers and other sea-going personnel become 'scapegoats' in the aftermath of many maritime accidents, especially marine pollution (Nautilus international, 2017). In the case of *Zim Mexico III*, a quayside electrician who was working on a container crane without permission died while the vessel under compulsory pilotage struck the crane, and the master was convicted of manslaughter by a jury under an archaic US federal law that dated back to 1838, even though the incident was beyond operational responsibility of the master (18 U.S.C. § 1115: US Code - Section 1115: Misconduct or neglect of ship officers).

Seafarers tend to face unjust criminal prosecution risks, including detention for onboard incidents—such as drug discoveries, stowaways, or even pornography—regardless of their involvement. They may also be held as "material witnesses" or for vague "administrative and technical" reasons. During investigations, their legal and human rights are often ignored: many lack access to legal representation, interpreters, or warnings about self-incrimination and the right to remain silent. Worse, flag states and seafarers' home countries frequently fail to intervene against discriminatory or retaliatory actions by port authorities. Compared to workers in other professions, seafarers endure disproportionately unfair treatment, leaving them uniquely vulnerable (Mukherjee, 2006).

Despite international guidelines designed to prevent the practice, seafarers face the risk of abandonment by their shipowners in foreign lands (Michel and Ward, 2009). In 2017, 28 cases were reported by July 31, and the cumulative number of

abandonment incidents since 1 January 2004 has increased to 287 (WMN, 2017). According to the ILO database, during the last five years, each year 12 to 19 crew abandonment incidents were reported involving a total of 1,013 seafarers (ILO, 2024b).

It is important to note that cases of abandonment are significantly underreported, with many incidents never being officially recorded (SRI, 2013). Abandonment typically results from deliberate economic calculations by shipowners facing financial distress, including vessel arrests due to bankruptcy, insolvency, or creditor claims. In some instances, unscrupulous operators abandon both crew and substandard vessels following port state detentions. Similarly, when ships are hijacked by pirates, owners may opt to abandon the vessel and crew rather than pay ransom demands. There are also documented cases where seafarers were left stranded in foreign ports simply because employers refused to cover repatriation costs or outstanding wages. Unsurprisingly, abandoned seafarers endure severe hardships when stranded abroad without financial means, often far from their home countries.

To address systemic imbalances in maritime labor relations, a range of complementary mechanisms have emerged to supplement traditional flag state enforcement. Port State Control (PSC) regimes integrate targeted inspections for labor compliance, detaining vessels with unpaid wages or substandard living conditions. Certification schemes such as the International Seafarers' Welfare and Assistance Network (ISWAN) and the Rightship Seafarer Welfare Index incentivize operators to exceed minimum standards through preferential chartering terms and insurance premiums (Ekwen, 2024). Multi-stakeholder initiatives have proven particularly effective in combating abandonment. The ILO/IMO Joint Database on Abandonment of Seafarers plays a critical role in coordinating responses from authorities, international organizations, and the maritime community (ILO, 2024b). At the grassroots level, Center for Mariner Advocacy (CMA) provides free legal assistance to seafarers and chaplains, seafarers' rights training, and legislative advocacy (CMA, 2024). These layered approaches—combining regulatory teeth with market incentives and civil society oversight—demonstrate how fragmented governance can be overcome when stakeholders align around workers' rights as a shared priority.

4 Sources of law governing maritime labor

The unique nature of maritime employment establishes seafarers as a distinct category of workers deserving specialized treatment and rights that differ from those afforded to land-based employees. As Fitzpatrick and Anderson (2005) conceptualize, seafarers' rights within the international framework can be bifurcated into two fundamental categories. First, they are entitled to universal human rights protections under international, regional, and domestic human rights instruments by virtue of their inherent human dignity. Second, they possess specific labor rights derived from their status as workers engaged

in maritime employment. This dual framework acknowledges both their humanity and their professional identity within the specialized context of seafaring.

4.1 The customs at sea

At sea, customs represent operational norms—informal but followed practices developed through maritime tradition and practical necessity. These lack formal legal force unless codified. In contrast, customary international law arises from consistent state practice coupled with a sense of legal obligation, making it universally binding. Unlike customs, violations of customary law can trigger state responsibility or adjudication. Treaty law, however, consists of codified obligations that bind only consenting states through explicit ratification, with enforcement mechanisms like Port State Control. While customs reflect industry pragmatism, customary law derives legitimacy from state consensus, and treaty law from formal consent. Treaties often absorb customs or customary norms (e.g., UNCLOS formalizing freedom of navigation), but only treaties provide predictable, detailed rules with structured compliance. Thus, while all three shape maritime governance, their legal authority ranges from voluntary adherence (customs) to universal obligation (customary law) to conditional, precise duties (treaties) (Riley, 2013).

Maritime shipping has functioned as a global commercial enterprise since antiquity, with regulatory frameworks evolving continuously from ancient through medieval to modern times. Notably, the principle of flag state jurisdiction - whereby vessels are subject to the legal system of their flag nation - only became firmly established in the late 19th century. Prior to this development, the high seas were governed primarily by the “customs of the sea,” a system operating outside conventional terrestrial legal structures.

This unique maritime legal tradition emerged from the inherent isolation of sea voyages, which necessitated autonomous shipboard governance and rigid hierarchical organization. The vessel's Master exercised extraordinary judicial authority, possessing magisterial powers to maintain discipline and safety. As documented by (Chapman, 1993), captains could administer punishment or detain crew members with the same authority as land-based magistrates, particularly when addressing threats to ship safety or crew discipline. Beyond its distinctive legal framework, seafaring constituted an all-encompassing way of life marked by shared peril. Crews collectively faced maritime hazards, shipwrecks, piracy, lethal diseases, and the psychological toll of isolation - including documented cases of suicide stemming from profound loneliness and anxiety.

As a distinct group of workers, the seafarers have practiced these sets of customs as a response to the particular nature of shipboard life. Some parts of these customs have been directed to the condition of the seafarers and affected their rights. From time to time, these customs were acknowledged in cases brought to courts of law and thereby have acquired the status of customary law. However, it is noteworthy that despite advances in ship design,

maritime technology and developments in international law, some of the customs (Marsh, 1996) continue to be followed at sea even if they are too archaic to be followed in modern society (Cummins, 2008). Other customs, such as ‘general average’, ‘masters’ authority’, ‘actions in case of distress at sea’, etc., have acquired the status of legislation in various jurisdictions including international conventions, such as SOLAS.

4.2 International labor standards established under treaties

Standards produced by the UN, the ILO, IMO and similar bodies are part of international law (Roth, 2000). International law traditionally creates rights and duties between States, whereas national law creates rights and duties involving individuals or companies in the national sphere (Slomanson, 2011). The enforcement of international standards relies mostly on the effective implementation of that at the national level.

The Preamble of MLC 2006 declares that “given the global nature of the shipping industry, seafarers need special protection”. However, there is a certain ambiguity towards the meaning of “special protection” and the special characteristics of seafarers’ profession.

Apart from human rights standards which seafarers are entitled to enjoy, the maritime industry is regulated at an international level based on laws and conventions by the IMO and the ILO. The IMO is the UN specialized agency supervising the safety of shipping and the prevention of ship source pollution. Unlike the ILO, the IMO focuses primarily on maritime-related and technical subjects. The UN adopted a series of conventions concerning the rights of seafarers, directly as well as indirectly. Implementation of these has usually been shared between the flag state of the ship itself and the port state of the ports that the ship calls. ‘The UN Convention on the Law of the Sea’ (UNCLOS) 1982 (UN, United Nations Convention on the Law of the Sea (UNCLOS), 1982) and the UN ‘Convention on Conditions for Registration of Ships’ (UNCCORS) 1986 (UN, 1986) stipulate legal requirements of flag states (UN, 1958).

The flag States which ratify treaties or instruments are obligated to implement relevant international standards to protect seafarers’ rights. For instance, according to Article 94 of UNCLOS, it is incumbent upon any State which allows the registration of vessels under its flag to effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag. These flag states undertake the positive duty to take appropriate measures to ensure safety at sea regarding crew training and manning, labor conditions, ship construction, equipment and seaworthiness. At the national level, the port state establishes a national maritime administration and bears corresponding duties in detecting and eliminating any substandard practices and in enhancing the safety of life at sea (Witt, 2007). For example, under ‘the International Convention on Maritime Liens and Mortgages’ the seafarer’s right to wages can be secured by a maritime lien, which is a substantive right in the property derived from the general maritime law (UN, 1993).

As a tripartite United Nations specialized agency, the International Labor Organization (ILO) has served as the primary institution for establishing and monitoring international labor standards for seafarers. Founded in 1919, the ILO’s fundamental mission is to advance social justice and address labor conditions characterized by injustice, hardship, and privation (Gushulak, 2006). The organization fulfills this mandate through two principal instruments: legally binding Conventions and non-binding Recommendations. While Conventions create formal obligations under international law for ratifying member states, Recommendations provide guidance on principles and best practices (Vukas, 2004).

The ILO’s distinctive tripartite structure - incorporating equal representation from governments, employers, and workers in all deliberative bodies - constitutes one of its greatest institutional strengths. This framework reflects the core belief that optimal solutions emerge through multi-level social dialogue (Reilingh, 2000), ranging from national tripartite consultations to sector-specific and enterprise-level collective bargaining. The participation of all three stakeholders ensures balanced consideration of diverse perspectives in labor standard development and implementation (Kaukab, 2011).

Many IMO Conventions and Protocols have imposed obligations on States to implement standards that guarantee the protection of seafarers in their working conditions. The most important one is ‘the International Convention for the Safety of Life at Sea’ (SOLAS) 1974, the main objective of which is to specify minimum standards for the construction, equipment and operation of ships, compatible with their safety. Under the SOLAS Convention, flag states are obliged to ensure that ships under their registration comply with its requirements, and several certificates are prescribed in the Convention as proof that the requirements have been met. In the meantime, Contracting Governments are entitled to inspect ships entering their ports if there are clear grounds for believing that the ship and its equipment do not substantially comply with the SOLAS requirements (IMO, 1974).

Some other IMO instruments strengthen the seafarers’ rights which are stated in other international maritime labor instruments. For instance, the International Management Code for the Safe Operations of Ships and for Pollution Prevention (ISM Code), which later became mandatory under Chapter IX of SOLAS, gave express recognition to the human element (IMO, 2010b). The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) was the first to establish basic requirements for training, certification and watchkeeping for seafarers on an international level. STCW also included requirements for rest hours to be complied with for watchkeepers. All seafarers supplying countries are obliged to meet or exceed the minimum standards prescribed in this Convention (IMO, 2010c). Both the ISM Code and the STCW Convention strengthen the objective of preventing human injury and loss of life, which are also stated in other international standards.

4.3 Human rights at the international level

Universal human rights are defined as rights that are accepted by or familiar to all people in anthropological or philosophical terms (Brems, 2001). These are universal rights which every person possesses and should be able to enjoy, regardless of their race, creed, sex, class, political belief or national origin (UN, 1948). Accordingly, seafarers have entitlements under international, regional and domestic human rights law.

Human rights at an international level are created by States, and the main sources are treaties and customary law. Some of these treaties are considered ‘core human rights treaties’ because they have a designated body of experts monitoring their compliance (UN, 2024). Other human rights are considered customary law and largely enshrined in ‘the Universal Declaration on Human Rights’ (UDHR) (by itself a non-binding instrument). There are other declarations and international instruments (such as the Guiding Principles on Business and Human Rights) which are non-binding but influential.

The implementation of human rights requires effective and positive action and restraint on the part of the state (Shue, 1979). This is done through the police and courts, thereby providing legal remedies for violations of rights. Alternately, the state is also required to refrain from engaging in activities which might interfere with one’s human rights (Ostergard and Sweeney, 2010). These embodiments of human rights can be found in various regional and international treaties, domestic law and customary international law. In 1948, the UN General Assembly adopted the UDHR, the 30 articles of which establish a common standard for all UN member states and proclaim rights which all human beings are entitled to enjoy (Donnelly, 2003). These articles have been elaborated in subsequent international treaties, regional human rights instruments and laws. For example, ‘the International Covenant on Economic, Social and Cultural Rights’ (ICESCR), and ‘the International Covenant on Civil and Political Rights’ (ICCPR) and their Optional Protocols were adopted in 1966 and 1976, respectively. In the nineteenth and early twentieth centuries, in tandem with working-class political struggles, two categories of human rights were largely discussed, civil and political rights, as well as economic, social, and cultural rights (Annaim, 2004).

4.4 Seafarers’ rights at national level

All international treaties and instruments, which will be explained in the next Section, require ratification to be binding for States. In dualist systems, the effective implementation of human rights requires incorporation into national law. Some of the treaties protecting human rights in the universal and regional system allow individuals to access the system. But it also requires express acceptance of the State and exhaustion of domestic remedies, making their access cumbersome. Depending on the nationality of the seafarers and the level of ratifications and incorporation of international law into the domestic system of the State of his nationality they will enjoy different protection.

Because the way of activating the protection of treaty provisions requires State ratification, those rights, while existent, are not always

easy to access. Only if an international treaty is ratified by a State, the State is bound to guarantee and protect the rights of seafarers and to implement them on the ships flying its flag. The UN Convention on Law of the Seas requires that every flag State adopt rules and regulations for the prevention and control of pollution, laws and regulations having at least “the same effect as that of generally accepted international rules and standards” (UNCLOS Art.211.2) (United Nations Convention on the Law of the Sea (UNCLOS), 1982). It is incumbent upon any State which allows registration of vessels under its flag to effectively exercise its jurisdiction and control in administrative, technical and social matter over ships flying its flag as are necessary to ensure safety at sea about construction, maintenance and seaworthiness, manning, labor conditions and crew training (UNCLOS Art.94).

The national flag constitutes the primary jurisdiction related to a ship. On the high seas, only the flag state may exercise legislative and enforcement jurisdiction over the ship. When these ships enter the territory of some other States, this jurisdiction gradually merges with the rules and regulations which other States may want to enforce about anyone entering their ports or territory as the ship sails from the high seas into coastal waters (Ozcayir, 2001).

Port State jurisdiction thus complements the existing jurisdiction of the flag State, conferring on the port State a duty to investigate and a right and even the duty to prosecute if sufficient evidence of the violation is available after investigation and if proceedings are not instituted or are discontinued by the flag State or in the case of alleged violations in territorial waters by other State (Kasoulides and Soons, 1990).

Apart from flag States and port States, seafarers are also covered by a special and separate body of policy and law of labor supply States. This can vary substantially between countries and is related to seafarer identification, competence certification, recruitment and placement agencies, employment agreements and in some cases, social security (Zhang and Zhao, 2015). In the meantime, CSR measures have become increasingly important in filling governance gaps left by flag states and weak enforcement mechanisms (Lima Weston and Kelling, 2024).

5 Compliance and enforcement of international regimes and standards

Standards produced by the UN, the ILO, IMO and similar bodies are part of international law (Roth, 2000). For example, the ILO has adopted more than 40 Conventions and 30 Recommendations since 1920. They address minimum maritime labor standards related to the recruitment of seafarers, hours of work, minimum age, welfare and social security, health and safety protection, payment of wages and labor condition inspection. However, the weakness of the ILO is that their mandate is limited to the creation and promotion of conventions but not their enforcement (Slomanson, 2011). The enforcement of these standards relies mostly on the effective implementation of that at the national level.

Whenever an international standard is established under a legal regime, effective implementation and enforcement are inevitably a

concern. There are many types of enforcement procedures available at the international level for the protection of human rights and labor standards. For example, in the UN mechanisms, there exist procedures related to reporting and complaints under human rights treaties (Conde, 2004), and special thematic and country procedures have been established within the framework of the UN Commission on Human Rights (Gutter, 2006). Similarly, ILO mechanisms provide three types of complaint procedures under the ILO Constitution: representation procedure, complaint procedure and special procedure (Leary, 1982).

Under these international mechanisms and procedures, there are several means to safeguard seafarers' rights. Firstly, any workers' or employers' organization may file a representation against a State alleging that it is not effectively observing the provisions of a particular Convention that the State has ratified (ILO, 2024a). Secondly, a complaint can be made that an ILO member State is not satisfactorily securing the effective application of an ILO Convention which it has ratified (ILO Constitution 1919: Art.26). In addition, a special freedom of association complaint procedure was established in 1950 by an agreement between the UN Economic and Social Council and the ILO Governing Body (Forsythe, 2009).

However, it is noteworthy that these standards are not legally binding and they become mandatory only after they are fully ratified and implemented by the governments into the national legislation systems. Therefore, a problem with ILO standards is that many Conventions are still waiting for sufficient ratification to enter into force. Most of the maritime Conventions have less than 30 ratifications, with approximately 40% of 183 ILO member States ratifying the Conventions. The general implementation rate is approximately 15% (Li and Mi, 2002).

Beyond UN and ILO procedures, regional systems and international courts—such as the European Court of Human Rights, Inter-American Commission, African Commission, International Court of Justice and International Tribunal for the Law of the Sea—play critical roles in enforcing human rights treaties (Ramcharan, 2013). Yet significant gaps persist in implementing these standards, particularly for seafarers, whose transboundary work complicates jurisdictional oversight. Most seafarers operate under complex multinational employment structures, with contracts spanning multiple jurisdictions, leaving their rights vulnerable despite existing international frameworks.

The primary mechanism for protecting seafarers' rights remains national legislation, contingent upon a state's incorporation of international conventions into domestic law. However, the inherently transnational nature of maritime work creates significant enforcement challenges. Seafarers frequently operate within complex multinational employment arrangements - working for owners from one country, under managers from another, on vessels flagged elsewhere, while trading between multiple jurisdictions (Khan et al., 2025). This jurisdictional complexity often leaves seafarers vulnerable to rights violations despite existing international standards. Many flag states prioritize attracting shipping investments through business-friendly regulations, frequently at the expense of seafarer protections. For example, Panama, one of the world's largest ship registries,

exemplifies this trend with its controversial and ambiguous labor legislation. The enforcement of treaty obligations by third-party states faces additional hurdles, as such actions may be perceived as infringing on flag state sovereignty. Moreover, implementing international labor standards requires states to reconcile human rights principles with national interests, necessitating significant domestic legal adjustments (Henkin, 1989).

MLC 2006 takes a new step toward State responsibility by imposing effective compliance and enforcement mechanisms of certifications and inspections on ships. One of the major innovations of the Convention is the cooperation among all ratifying States using comprehensive enforcement and compliance mechanisms (Khan et al., 2024). The flag State is obliged through an effective and coordinated system of regular inspections, to verify that ships flying its flag comply with the requirements of the Convention. Moreover, each flag State shall require ships flying its flag to carry and maintain a 'Maritime Labor Certificate' complemented by a declaration of maritime labor compliance, certifying that the working and living conditions on board the ship meet the requirements of national law and MLC 2006 (Chang and Khan, 2023).

PSC authority has the responsibility to inspect ships entering its ports to ensure that labor standards on board comply with MLC 2006. In addition, because of the principle of 'no more favorable treatment', the ships registered in flag States which have not ratified the Convention, might face frequent, costly and more detailed PSC inspection. This might be a motive for such a country to ratify MLC 2006. Nevertheless, supervisory procedures in the ILO can also lead to embarrassing conclusions against States deciding to stay out of the MLC 2006 regime, inevitably affecting those States' market reputation and standing (Payoyo, 2009).

Despite the above merits, MLC 2006 still has some weaknesses that have to be overcome for full implementation. First of all, the ILO lacks enforcement power over the labor rights it establishes (Cohn, 2001). The standards established by the ILO are often referred to as 'soft international law' because they 'fail to lay down specific, directly enforceable legal obligations, but rather limit themselves to setting forth standards of conduct deemed desirable by the respective international organizations and their member States' (Baade, 1995). Despite the progress made by the ILO in the form of MLC 2006, its enforcement relies on port states and flag states taking their responsibilities seriously. However, economic incentives may exist for port States to take a less stringent approach to these inspections as a direct result of competition within the global shipping industry. It is in a nation's self-interest to ensure that none of its competitors gains a competitive advantage by ignoring the Convention's requirements (Bauer, 2008).

To counter the economic incentives that undermine the MLC 2006's implementation, a paradigm shift is required from a purely regulatory approach to one that also creates tangible economic and reputational benefits for full compliance. This can be achieved by empowering market actors within the maritime supply chain. Charterers, cargo owners, financiers, and insurers must be encouraged to integrate MLC 2006 compliance into their core

business decisions, making it a critical factor in vetting vessels and determining contract terms. The development of transparent, standardized rating systems that publicly grade vessels and shipowners on their labor standards would allow responsible businesses to preferentially select high-performing operators, thereby creating a powerful commercial advantage for those who invest in seafarer welfare. This market-based pressure, driven by corporate social responsibility policies and consumer demand for ethically sourced products, can establish a financial imperative that complements regulatory measures, making it economically detrimental for owners and flag states to circumvent the Convention.

Furthermore, closing the enforcement gap necessitates strengthening the mechanisms that hold both flag and port states accountable for their obligations. While the “no more favorable treatment” clause is a foundational principle, its application must be made more consistent and robust through enhanced cooperation between major port state control regimes (like the Paris and Tokyo MOUs). These regimes should implement harmonized, risk-based targeting systems that not only prioritize substandard ships but also publicly flag states with consistently poor oversight records, thereby damaging their commercial attractiveness. Simultaneously, seafarers themselves must be provided with more accessible and fear-free channels to report violations. This includes the development of independent, international whistleblowing mechanisms and guaranteed access to legal aid, ensuring that those on the front lines can serve as eyes and ears for enforcement without fear of retaliation from employers or blacklisting by states. By bolstering both top-down accountability and bottom-up reporting, the enforcement of the MLC 2006 can become less susceptible to the economic pressures that currently create races to the bottom.

6 Conclusion

6.1 Legal gaps

Despite the critical role of seafarers in global trade, their rights remain inadequately defined and protected. While the MLC 2006 represents progress, its reliance on voluntary compliance and weak enforcement mechanisms undermines its effectiveness. The ILO lacks punitive power, leading to inconsistent adoption of standards. Furthermore, maritime labor’s unique challenges—such as isolation, extended contracts, and jurisdictional ambiguities—demand specialized legal frameworks that current conventions fail to fully address.

6.2 Governance weaknesses

The polycentric nature of maritime governance exacerbates these gaps. Flag states, port states, and labor-supplying nations often have misaligned incentives, resulting in lax enforcement. Overreliance on PSC inspections is insufficient, as systemic issues like wage theft and exploitation persist due to fragmented accountability. Additionally, the maritime industry’s deregulated environment allows exploitative

practices, such as substandard wages and unsafe working conditions, to thrive with minimal consequences.

6.3 Policy proposals

To strengthen seafarers’ rights, fundamental reforms must be implemented across multiple levels. At the international level, the MLC 2006 should be updated to address emerging labor challenges, incorporating stricter enforcement mechanisms such as sanctions for non-compliance and expanded oversight roles for shipowners and seafarer unions. Nationally, flag and port states must harmonize enforcement through binding agreements, while labor-supplying countries should impose stricter regulations on crewing agencies to prevent exploitation. Within the industry, shipping companies must recognize labor rights as a strategic investment rather than a cost, ensuring fair wages, decent working conditions, and transparent recruitment practices to improve retention and operational efficiency. Ultimately, a coordinated effort involving the ILO, governments, industry stakeholders, and unions is essential to institutionalize robust protections and restore the profession’s global appeal.

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