Seafarer Abandonment: A Human Rights at Sea Perspective from Iran

By

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Oversight by David Hammond
Abstract

Abandonment of seafarers is a problem that has historically arisen with the growth of the shipping industry. In most cases of abandonment, the crew is unexpectedly deserted by their employer who has become incapable of generating the required funds to continue with their marine operations. Abandoned seafarers often find themselves stranded in a country where they do not speak the language, are facing difficulties of financial constraints due to unpaid wages, and often lack of access to timely legal procedure and expert support.

The aim of this legal research paper is to highlight an applicable path for recognition and potential further educational development of seafarers’ rights relating to abandonment through awareness; and which is proposed from an Iranian perspective. Much of the basis for the current study comes through my individual research and work as an intern and scholar for Human Rights at Sea (HRAS), a Charitable Incorporated Organisation and independent maritime human rights platform based in the United Kingdom. My work has been conducted from The Islamic Republic of Iran.

The study examines past and present cases of seafarer abandonment and international law relating to maritime labour and seafarer abandonment. The objective of this research is to determine whether current laws and their practice and enforcement are sufficient in protecting the human rights of abandoned seafarers. Where laws are found to be insufficient, or ill-enforced, I propose possible solutions and alternatives that may lead to increased welfare support for the vulnerable population of abandoned seafarers, as well as increased awareness of human rights at sea, in general.

I conclude that support for abandoned seafarers remains lacking. I propose the implementation of independent investigations into the alleged human rights abuses of abandoned seafarers, addressing any discovered problems through proper legislative procedure by flag States, supported by human rights at sea authorities, ship inspectors,
lawyers or consultants directly supported by the UN, or competent and credible non-governmental organisations.
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Introduction

Human rights protection for seafarers has been a long-standing issue that has arisen with the development of the shipping industry. For many seafarers, seafaring means "danger, isolation and restriction" where the protection of the legal system is not easily accessible.\(^1\) The vast expanse of the sea also causes seafarers to feel isolated, often making them perceive that they are away from and outside the protection of competent legal systems that change at the border of every coastal State they pass by, or through. This legal isolation occurs because laws or regulations governing seafarers aboard the ship may change or be updated within the shipping community while they are away on the high seas without their knowledge. “What then takes place is the ‘custom of the sea’\(^2\) that evolved and transferred from one ship to another through word of mouth.”\(^3\) This informal and unregulated system has led to misunderstanding in several areas of human rights protections at sea.

Add to this the fact that the seafarers involved in abandonment cases are often members of the lowest classes in shipping societies, increases their vulnerability in the face of unscrupulous shipping companies and shipowners who do not always have their workers’ best interests in mind, or see the seafarer as an expendable asset. This is where seafarer’s human rights and their welfare support becomes vulnerable to exploitation in the face of legal complexities, poor individual awareness of rights, and uncertainties about challenging their employers. In cases of seafarer abandonment in which shipowners deliberately abandon their crew (usually for prioritized financial reasons), the legal protections for the abandoned seafarers often appear inadequate, despite protections by the Maritime Labour Convention 2006 (MLC 2006).

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2 ibid.
Life at sea for many seafarers can also involve a degree of abuse, including physical abuse such as beatings, sexual assault, inadequate medical treatment, substandard accommodation, and inadequate nourishment, and mental health conditions that arise from isolation, cultural insensitivity, and a lack of amenities for social interaction on board. Social isolation is also increasingly assisted by technology as seafarers interact in the isolation of their cabins, and not in communal messing areas as they historically did.

Non-payment of wages and delays in paying entitlements to families, especially in the case of seafarers’ abandonment, are additional emotional abuses that directly contribute to this suffering. Seafarers may face abandonment for many months, sometimes years, without pay, and little hope of repatriation. The flag States’ courts and administrative systems may also lack the legal experience and will to successfully address the struggles these maritime workers face.

In most cases of abandonment, the crew are unexpectedly deserted by their employer who has become incapable of generating required funds to continue with daily marine operations. The abandoned seafarers often also find themselves stranded in a country where they do not speak the language, and where they face the difficulties of financial constraints due to unpaid wages. When combined with the dangers of the elements of the sea, and the possible abuse by bad owners, this puts an unacceptable pressure on the seafarers.

Due to the vastness of the maritime domain, helping these abandoned seafarers becomes problematic for many reasons. In abandonment cases, it is often difficult for seafarers to contact UN agencies, or other authorities for support if vessel communications are not available or working, or there is a lack of funds to top up individual phones. There is often a lack of monitoring of maritime working conditions depending on the owner, unless the vessel comes into a port and is inspected by Port State authorities; and there is a lack of enforcement of international laws by the flag States to whom the vessels are registered.
There appears a lack of remedy which can be implemented quickly and effectively, especially if seafarers have poor or no contracts.

In response to the rampant violation of seafarers’ rights and the rising trend of criminalisation of seafarers involved in abandonment cases, various international laws and legal instruments have been formulated and instituted by international bodies to address the above stated problems. While some legal references purposely for seafarers have been established in Conventions such as the International Convention for the Safety of Life at Sea (SOLAS 1974), the United Nations Convention on the Law of the Sea (UNCLOS 1982), and the Maritime Labour Convention of 2006 (MLC 2006), a comprehensive code of law governing all of their fundamental human rights at sea does not exist. Although these laws have come into force, or have been ratified by many shipping nations, often the enforcement and effective practice of the laws is still lacking, and human rights at sea are still not as adequately protected as they are on land.

David Hammond, Founder of Human Rights at Sea (HRAS), states, “the words ‘human rights’, let alone ‘human rights at sea’ do not explicitly feature in UNCLOS, or the MLC[.] This is because it is assumed that they are impliedly taken into account as a part of State responsibility,”\(^4\) or they can be included by the use of UNCLOS Article 311. However, the assumption that human rights will always be upheld by the governments involved in seafarer abandonment cases falls short in practice, as has been seen in the many case studies covered by the HRAS charity.

In analyzing past and present abandonment cases, I examine whether or not each abandonment circumstance was met with adequate legal action or support, and I identify

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areas of concern that may be addressed with the changes that I propose. In my examination of these past cases, as well as in my interactions with more than 24 abandoned seafarers in a current case in Kish, Iran; I conclude that support for abandoned seafarers remains lacking. I therefore propose the implementation of independent investigations into the alleged human rights abuses of abandoned seafarers, addressing any discovered problems through proper legislative procedure by flag States, supported by human rights at sea authorities, ship inspectors, lawyers or consultants directly supported by the UN, or competent and credible non-governmental organisations.

Background

Let ‘shipowner’ here be defined as the owner of the ship, or any other organisation, person, manager, agent, or bareboat charterer who has assumed the responsibility for the operation of the ship from the shipowner, and who, assuming such responsibility, has agreed to take over all the attendant duties. ‘Seafarer’ is defined as any person who is employed in any capacity on board a seagoing vessel. Let ‘abandonment’ here be defined as the voluntary relinquishment of all rights, titles, claims and possessions, with the intention of not reclaiming them.

In relation to seafaring, abandonment occurs when the shipowner fails to cover the cost of the seafarers’ repatriation and has left the seafarer without the necessary maintenance and support; or when the shipowner has otherwise unilaterally severed ties with the seafarer, including failure to pay contractual wages for a period of at least two months. The reasons why abandonment of seafarers occurs vary depending on the circumstances prevailing at the time. However, the usual reasons are financial. In many cases, the shipowner becomes incapable of generating required funds and continuing with daily maritime operations, and, as a result, seafarers are left to fend for themselves without adequate support.
According to international maritime law, seafarers are classified as abandoned when a shipowner withdraws all responsibility by failing to meet their obligations regarding seafarers’ financial and social security, extradition, and other related costs. In such cases, the shipowner fails to provide basic necessities of life, such as residential facilities, medical attention, and foodstuffs. Seafarers are, nonetheless, entitled to human rights, including the right to life, the right to family life, the right to wages, the right to reasonable working hours and holidays, the right to medical treatment for sickness and injury, the right to receive social security, and the right of repatriation.

Objective

The objective of this research from Iran is to present and identify the most common forms of violation of seafarers’ rights in terms of their work and living conditions on board, by making a thorough discussion of the prevalent issues relating to the treatment of seafarers in abandonment circumstances in both past and present cases. It aims to undertake a comparative analysis of how seafarers are treated by the shipping industry, and the maritime sector as a whole, and to determine if the measures and remedies that are currently being undertaken, or additional sanctions proposed to be undertaken, will ultimately address any human rights violations. The aim of this research is not only open an avenue of debate on human rights issues at sea, but also to recommend sound measures, and suggest changes for improving the protection of human rights at sea.

Methods

This research focuses on the identification of different issues relating to the treatment of seafarers. Primary sources available from within Iran for this study and analysis include pertinent sections and provisions of the labour, maritime, and human rights law, both within the purview of domestic and international areas of jurisdiction, including but not limited to, relevant international conventions and applicable treaties and other international
instruments as well as case laws and jurisprudence. Primary sources also include personal interviews with seafarers conducted by HRAS and myself, which allowed me to gather firsthand information about the issue. My remote working with HRAS over the last three years has illuminated much current information on the issue of seafarers’ abandonment, as well as other human rights at sea issues, and provides a large portion of the basis for this research.

Secondary sources included various reference books that deal with this topic or have relevance thereto, as well as a compilation of journals, articles, editorials, dissertations, and written communications from relevant national and international agencies and bodies. Internet research was also undertaken, particularly utilising the official websites of the International Labour Organization (ILO), International Maritime Organization (IMO), welfare organisations, Seafarers Rights International, and HRAS.

**Current Legal Regime Relating to Seafarers’ Abandonment**

**Rights of Repatriation of Seafarers**

Enactments on the repatriation of seafarers have stated that at the end of every contract, the seafarer will be repatriated. Therefore when seafarers are abandoned by their employers, they *expect* to be repatriated. However, in reality this is not always the case because the contracts between seafarer and employer are written to favor the employer, or may not even exist at the first instance. This often means that the seafarer will end up shouldering their own repatriation costs, and may not be repatriated by their employer for many stated reasons, such as being in an “inconvenient port”.

Problems with repatriation of seafarers may arise when shipowners fail to fulfil their duties to abandoned seafarers. According to the Repatriation of Seafarers Convention (Revised)

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5 Hubilla, 15.
6 ibid., 16.
1987, the responsibility of shouldering repatriation costs and arrangements falls upon the shipowner. In real-life cases of abandonment, however, the shipowners, finding themselves in financial crisis or otherwise motivated by economic pressures, often disappear, leaving their crew to fend for themselves. According to the same Convention, when the shipowner fails to fulfil their responsibilities of repatriation, the responsibility then falls upon the flag State of the ship. If the flag State fails in this responsibility, then it is the country of origin of the seafarers or the country in which they are stranded who must shoulder the repatriation arrangements.

Where then does the problem with repatriation of abandoned seafarers arise?

The problem is that, in actual cases of abandonment where the legally expected avenues of support for repatriation fail, there is still no clear mechanism for determining if the employer or the flag States have failed in their duties. This leaves many cases unresolved.

![Figure 1: Top 10 Flag States of Ships Involving Abandoned Seafarers (1995-2000)](image)

Figure 1 shows data from a study of the top ten flag States of ships involved in the growing increase in the abandonment of ships and their crew. From 1995 to 2000, the International

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7 ibid., 16.
8 The Sea; news article entitled Russians abandoned in UK, Issue # 198, March/April 2009, 4.
9 Barsan, E., Social Aspects of the Seafarers Integration on the Maritime Jobs Market, 4th IAMU
Trade Union Federation (ITF) intervened in more than 210 cases of abandoned seafarers, involving an approximate 3,500 individuals. The ILO’s current online database on reported incidents of abandonment of seafarers indicates that there were a total of 65 cases during a six year period from 2004 to 2009, thirty of which have already been resolved, with the remaining 35 still pending resolution.

Abandoned seafarers are often illegally detained and not allowed to repatriate to their home countries. Additional difficulties can arise in the event of shipwreck. There have been cases in which the shipowners wrongly attribute the destruction of the ship to the fault of the crew, therefore refusing to repatriate them, or assist them. In such cases, shipowners have repeatedly left abandoned crew without food and water aboard an unsafe vessel with insufficient personal safety equipment and medical services, and have failed to provide payment of wages for many months.

Legal Regimes Established in Several International Maritime Conventions

Many international bodies have worked to establish international conventions relating to the regulations of the sea and maritime labour. These have included the “Comite Maritime International (CMI), the International Maritime Organization (IMO), International Labour Organization (ILO), and different subsidiary bodies of the United Nations (UN)...”.

As already highlighted, international Conventions formulated by the above-mentioned organisations that cover various seafaring issues include the United Conference on the Law

General Assembly, Constantza Maritime University, 104 Mircea cel Batran Street, Constantza 8700, Romania.

10 International Commission on Shipping [ICONS], Inquiry into Ship Safety, Ships, Slaves and Competition, Australia, 2000, p. 52; citing the Submission No. 17, NUMAST, UK, p. 16.


12 Hubilla, 23.

The MLC 2006 provides two amendments that establish a financial security system for seafarers, conditions of employment and accommodation, welfare and social protection, recreational facilities, food and catering, health protection and medical care, and complaint procedure. In cases of abandonment, the financial security system was intended to cover seafarers for up to four months of outstanding wages and entitlements. It was intended to cover the expenses of repatriation costs, food, clothing, medical treatments, and any other necessities related to the abandonment situation. Additionally, the MLC’s financial security system demands payments of all outstanding remuneration, accrued wages, and other entitlements which stand on the contract of employment between the seafarers and the shipowners. The final amendments of the MLC 2006 have been in force since 18 August, 2017.

However, as shall be demonstrated in the case studies below, despite the implementation of several international Conventions and laws, the actual effective enforcement and practice of these laws does not always occur in real-world abandonment situations, and legitimate concerns about related human rights violations persist.

Presentation and Analysis of Seafarers’ Abandonment Cases

HRAS Case Studies

The following case studies of seafarers’ abandonment were conducted by Human Rights at Sea (HRAS). The first two cases were conducted by other members of HRAS, while the third case was conducted by myself.
Case No. I: The MT IBA

Vessel Location: United Arab Emirates (UAE)

Years: 2017 - present

Vessel: MT IBA

IMO No.: 9438200

Port State: UAE

Shipowner: Alco Shipping Services LLC

Flag: UAE

Crew's nationalities: Indian, Pakistani, Sri Lankan, Myanmarian

The crew of the MT IBA were abandoned in the Hamriyah Free Zone, off the coast of the UAE. They repeatedly attempted to contact their employer for signoff of their wages and access to food, water, and medical treatment; however, all of their correspondences were ignored. At the time the case study was published (2017), their request for unpaid wages had gone unanswered for six months. They were left on board an unsafe ship with insufficient personal safety equipment, they were suffering from undiagnosed skin conditions, and were denied access to medical treatment for five months, further aggravating their suffering.

The basic human rights of the crew were violated in this case, as they were denied liberty, protection of their health and bodily integrity, protection of their right to life, and lack of family life due to being detained in the port, unable to return to their home countries.

The shipowner Alco Shipping Services LLC (Alco) and the Government of the UAE appear to be in violation of several international documents and Conventions established by the ILO, IMO, MLC 2006, the UN's Universal Declaration of Human Rights (UNDHR), and the International Covenant on Civil and Political Rights (ICCPR). One violation is that Alco did

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13The International Covenant on Civil and Political Rights or ICCPR was created in 1966. It entered into force on 23 March 1976.
not have an effective financial security system in place, nor had the UAE Government implemented the financial security system provided by the ILO and the IMO Amendments. They also appear to have failed to provide necessary medical treatments, adequate food and water, accommodation or repatriation, and they have been illegally detaining the crew, holding them on board a ship that cannot safely function.

The UAE Government also appears to be in violation of several national laws in this case, as I shall demonstrate.

According to the UAE’s Constitution, the UAE shall have exclusive legislative and executive jurisdiction in foreign affairs, and in health and medical services. According to Article 121, the UAE shall have exclusive legislative jurisdiction on labour relations and social security in territorial waters. Article 125 provides an obligation for the UAE Government to take steps to implement international agreements, therefore, it is incumbent upon the UAE to ratify relevant documents and treaties particularly for the benefits of labourers, such as the MLC 2006. At the time of this writing, the UAE has not ratified the Amendments or Resolutions of the MLC 2006, IMO, or ILO Convention,¹⁴ nor have they fulfilled their other obligations in cases of labour and foreign affairs, as outlined in their own constitution.

Furthermore, according to IMO 930(22) Resolution 35,¹⁵ because the shipowner failed to meet its obligations to its crewmembers, the UAE Government, as the State of port and flag, as well as the home State of Alco Shipping is required to assume the responsibilities of protecting and helping the abandoned seafarers, which they appeared to have failed to do.

In conclusion, the case of the MT IBA demonstrates clearly that, although both national and international maritime Conventions may be in place, they are still not always enforced or

¹⁴ ILO, Information system on international labour system.
¹⁵ IMO Resolution 930(22): In cases where the shipowner fails to meet its obligations, the flag State may be called upon, and in some cases the State of which the seafarers is a national or the port State may be called upon to intervene.
practiced effectively, leading to the continued suffering of abandoned seafarers. At the time of first writing (2018), the crew of the MT IBA were still on board the ship.

This case exposes the complications that can arise in cases of seafarers’ abandonment when communications between parties fail. When the employer, or other parties responsible for the welfare of the workers, fail or refuse to respond to the worker’s pleas for help, this case shows that often there are not enough effective alternative avenues for seeking aid or finding a solution to the problems faced.

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<td><strong>Location:</strong> Soyo, Zaire Province, Angola</td>
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<tr>
<td><strong>Years:</strong> 2017 - present</td>
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<tr>
<td><strong>Vessel:</strong> MV Sutton Tide</td>
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<tr>
<td><strong>IMO No:</strong> 9389461</td>
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<tr>
<td><strong>Owner:</strong> Sonatide (a joint venture between Sonangol [Angola’s national oil company] and Tidewater, Inc. [USA])</td>
</tr>
<tr>
<td><strong>Flag:</strong> Vanuatu</td>
</tr>
<tr>
<td><strong>Crew’s nationalities:</strong> Croatian, Filipino, Russian, Ukrainian</td>
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<tr>
<td><strong>Allegation:</strong> illegally sold around 104 cubic meters of diesel without consent of the owner</td>
</tr>
<tr>
<td><strong>Plaintiff:</strong> Sonatide</td>
</tr>
<tr>
<td><strong>Defendants:</strong> The crewmembers of the ship</td>
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<tr>
<td><strong>State of jurisdiction:</strong> Soyo, Angola</td>
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The crewmembers of the MV Sutton Tide, a platform supply vessel owned by Sonatide, were accused by their employer of illegally selling 140 cubic meters of diesel. This allegation was reported to Sonatide by one of the crewmembers, and the Sonatide office in Angola reported the alleged illegal activity to the local authorities in Soyo.
On 5 March 2017, the local authorities detained the crew and confiscated their passports. After detention, the local magistrate signed a document confirming that they were not formally under arrest and authorised the release of their passports. The local police, however, did not pass this order to the crewmembers and instead held them without access to legal procedure and representation for almost three months.

Subsequently, the Ukrainian embassy provided evidence to the local prosecutor that exonerated the crew. This included the engine logbooks and the reports signed by a third party that showed that while the ship was working in Angola for 44 days, all of the fuel was accounted for.

Violations According to the Constitutional Law of Angola
According to Article 2, section 1 of Law N6: 21/92 of Angola, the coastal State can exercise its authority within territorial waters. Accordingly, Angola has jurisdiction to handle this case.

According to the Angolan Constitution, Article 26, sections 1, 2, and 3:

I. The fundamental rights enshrined in the Constitution shall not exclude others contained in the laws and applicable rules of international law.

II. Constitutional and legal precepts relating to fundamental rights must be interpreted and incorporated in accordance with the Universal Declaration of Human Rights and the African Charter on the Rights of Man and Peoples and international treaties on the subject ratified by the Republic of Angola.
III. In any consideration by the Angolan courts of disputes concerning fundamental rights, the international instruments referred to in the previous point shall be applied, even if not invoked by the parties concerned.

According to Article 29 of the Angolan Constitution:

Under the terms of the law, everyone shall possess the rights of legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority.

The local authorities involved in the MV Sutton Tide case failed to follow the Angolan Constitution by not informing the crew about the nature of the allegations against them, as well as detaining the crew without providing them proper legal due process.

By refusing to inform the crew of the local magistrate’s order to return their passports at the beginning of the investigation, the police denied the crew the protections and rights of arrested persons guaranteed by Article 29 of the Angolan Constitution. Local authorities also violated Article 26, section 2, of the Angolan Constitution, which provides that constitutional and legal precepts in relation to fundamental rights must be interpreted in accordance with the Universal Declaration of Human Rights. From a human rights point of view, the crew has faced a lack of liberty, proper access to justice and the ability to leave freely, as well as a lack of family life, and a lack of protection and rights of an arrested person.

Violations Against Human Rights Based on International Convention
This circumstance demonstrates that Sonatide failed to support its crew, which is classified as a case of abandonment.
According to IMO Resolution 930(22)’s Guideline on Provision of Financial Security in Case of Abandonment of Seafarers, a shipowner should arrange for a financial security system that complies with the guidelines, as well as display on board the contact details of the persons or entity responsible for handling claims covered by the guidelines. Accordingly, in the case of abandonment characterised by the severance of ties between the shipowner and the seafarer, abandonment occurs when the shipowner fails to fulfill certain fundamental obligations to seafarers relating to timely repatriation and payment of outstanding remuneration and provision of the basic necessities of life.

To summarize, the financial security system outlined in IMO Resolution 930 (22) includes:

- The expenses of the repatriation of the seafarers, which are to be met without cost to the seafarers.
- The maintenance of the seafarers from the time of abandonment to the time of arrival at the place of repatriation.
- Payment to the seafarer of all outstanding remuneration and contractual entitlements.
- Payment to the seafarer of other expenses incurred during the period of abandonment arising from the abandonment.
- The maintenance of seafarers while abandoned should include adequate food, clothing, accommodation, medical care, and other basic necessities of life.
- Payment to the seafarers of all outstanding remuneration should include accrued wages and other entitlements as provided for in the contract of employment and/or under national law.
- In the event that the shipowner fails to fulfill their responsibilities, the financial security system should provide for repatriation of the seafarers by appropriate and expeditious means, normally by air, and should include provisions of food, accommodation for the seafarer from the time of leaving the ship until arrival at the place of repatriation, medical care, and other responsible charges.
The MV Sutton Tide’s crew had not been paid since March, and they were facing increasing legal and accommodation expenses, which were approximately US $15,000 at that time; the majority of which has been paid by the seafarers’ families. The court authorised the crew to leave Angola if Sonatide provided the necessary supporting documents.

Abandonment in this case occurred when the shipowner failed to fulfill certain fundamental obligations to the seafarers with regard to timely repatriation and payment of outstanding remuneration, and the provision of the basic necessities of life, adequate food, accommodation, and medical care.

Sonatide violated several of the rights of seafarers, including:

- Failing to providing certification related to the crew’s immigration.
- Failing to provide legal representation.
- Failing to provide adequate food and accommodation for the seafarers from leaving the ship until arrival at the place of repatriation, medical care, passage, and transport of personal effects and any other reasonable charges.
- Failing to prepare the crew’s repatriation.

It is also important to recognize the emotional distress to which the crew in this case were subjected when they were abandoned. They encountered a multitude of circumstances that led to undue emotional distress and suffering, namely:

- Being far from home and family.
- Unpaid wages led to undue financial stress for the seafarers’ dependents, one of whom was in hospital.
- Crewmembers had concerns about their legal rights and status with immigration and other authorities, which led to uncertainties about their fate in this case.
The indeterminate nature of their detention drove the Russian crewmember to attempt suicide. Other crewmembers engaged in a hunger strike.

In conclusion, Sonatide failed to fulfill its obligations to the members of its crew, leading to several human rights violations. The State of Angola, furthermore, did not follow appropriate legal procedure. A few third party organisations and charities, including HRAS, were and continue to be active in working to monitor such cases and alleviate the suffering of the abandoned crew through direct and indirect interventions. However, this circumstance further demonstrates the need for more such monitoring and intervention in cases where legal jurisdiction becomes uncertain, and the existing national and international convention is not always enforced.

**Case No. III: Kish Island, Iran**

**Year:** 2018  
**Vessels:** Various  
**Port State:** Islamic Republic of Iran (IRA)  
**Shipowners:** Baltic Marine Services (BMS), Al Matab Shipping  
**Crew's nationalities:** Indian, Ethiopian, Filipino

**Case Statement:** Seventeen seafarers were abandoned by various marine companies on Kish Island, Iran, of which it was alleged that none have been paid for over two years.

In May 2018, HRAS received a report that seventeen seafarers had been abandoned on Kish Island, off the coast of Iran. Among them were twelve Indian nationals, three Ethiopian
Nationals, and two Filipino nationals. All seventeen seafarers worked on different ships run by various companies, including Baltic Marine Service (BMS) and Al Matab Shipping.

The stranded seafarers claimed that they had been suffering from food poisoning due to contaminated food, as well as other health issues. They claimed some of them had been in Kish for over a year, waiting to be paid their outstanding salaries, which they contended had not been paid for up to two years. Their respective employment contracts had all expired and they were left waiting for the return of their identity papers so that they could repatriate to their home countries. All supporting documents had been retained by the shipping companies they were employed by, without justification, and their employers were failing to respond to their pleas for assistance. The employees refrained from providing full details of the companies that they worked for, fearing reprisals from their employers.

In September 2018, I contacted the crew manager and operation officer of BMS. He negated the claims of the human rights violations of the company by providing the following evidence and stating:

“The crew, after completing their contract, will be transferred to the company’s temporary dormitory. BMS will arrange their salary statements and will forward to their accounting department with bank account details for arranging payment. The employees will receive their salaries and other entitlements within four days to 45 days, depending on the amount of wages.”

“While they are waiting for salary in the dormitory, they have clean rooms with bed accessories, air conditioning in all cabins, and access to laundry, bath, and meals. They are free to go to the city for shopping or leisure. If they should need medical assistance or checkups, this will be provided by company staff for free. Finally, after they receive their salaries, BMS will provide flight tickets for their return home, according to their contract.”
While the crew stays in the dormitory, Iranian Immigration Officers perform random checks to monitor the number of crew waiting, and the standard of living there. If the crew have any complaints, the Immigration Office will contact BMS to ensure that the seafarers’ circumstances and standard of living are satisfactory. Port State Control in Kish is also monitoring the company to ensure that it pays the crew on time.

HRAS also attempted to contact Al Matab Shipping, but at the time of this writing, they have not responded.

Iranian Position and My Response

Because of the strategic location of Kish Island in the Persian Gulf, authorities of the Islamic Republic of Iran, including the Coast Guard and Immigration Department, take special care to ensure the safety and security of any transportation and transaction in this area. Any seafarers who come to Kish, regardless of nationality or employer, receive support from Iranian authorities. For example, seafarers are not permitted to stay on board their ship after arriving in the territorial waters of Kish, and must be transferred to a safe place on land by their marine companies. It is the customary law of this area for seafarers to have sufficient accommodation and funds during their stay on land in Iran.

I had phone conversations with more than five crewmembers of BMS. They sent me photos of their circumstances, accommodation, and transportation, which positively confirm the crew manager’s defenses of their safety and wellbeing.

According to my research, I found that seafarers employed by BMS have standard accommodation and food, and every seafarer whom I communicated with maintained that they receive good treatment by their BMS employers as well as the Iranian authorities and Coast Guard. According to the seafarers’ affidavit and transit forms provided by BMS, despite the economic crisis in Iran, all seafarers will receive their salaries and tickets back to their home countries in fewer than three months. The safety, health, and entitlement
circumstances of the seafarers is checked regularly by the State Port Guard, as well as the Immigration Department and other authorities who are involved with international seafarers on the coast of Kish.

While the evidence provided by BMS’s crew manager and employees represents some positive actions in terms of the human rights protections of seafarers, there is still cause to be concerned about continued human rights abuses in the area by other marine companies. Some of the legal actions taken by the marine companies toward assisting their employers came only after urging by the HRAS charity, which further highlights the need for such third-party organisations in human rights at sea cases.

Conclusions

The MLC 2006 and other International Conventions have already provided legal measures that are intended to manage seafarers’ abandonment cases. When it comes to implementation of the legal regimes set forth by the various national and international bodies involved in seafarers’ abandonment cases, shipowners and flag States are urged to resolve cases of seafarers’ abandonment. In practice, the IMO usually makes the first contact with the flag State and/or port State concerned. The ILO may, if necessary, also send official letters to flag and/or port States in order to remind them of their obligations under the MLC 2006 and its amendments. However, as demonstrated in the seafarers’ abandonment case studies discussed above, in practice, these laws and regulatory bodies are not always leading to satisfactory human rights protections at sea, often due to jurisdiction complications and confusions, as well as the seafarers’ lack of access to support groups. We need ongoing legal support for abandoned seafarers that is globally available, as well as the continued and increased involvement of non-profit organisations and charities that continue to raise awareness of human rights issues where they are occurring.
The implementation of the Amendments of the MLC 2006 is an historic event in the history of international labour standards, but the preventative work is not finished. Effective implementation of policies protecting the human rights of seafarers is critical to ensuring that law translates into practice. The ILO is closely working with governments, seafarers, shipowners, and other key actors in the maritime industry to help ensure that the goals of the MLC 2006 are achieved.

While it is true that efforts to address the human rights issues of abandoned seafarers are continually being undertaken through the adoption or enactment of different laws, legal instruments, and other policy measures, both domestic and international, the rampant violation of seafarers’ human rights have not yet been fully addressed even up to now. When marine abandonment occurs and seafarers encounter financial difficulties, employers do not hesitate to abandon their ships’ crew despite noticing they are in a foreign port away from their home countries, without sufficient food, water, fuel, money, or means of communication. Shipowners sometimes realise that the value of the ship is less than the cost of paying their creditors and the crew’s wages. Therefore, the decision to abandon the ship becomes the most practical way of cost avoidance. This may be expected in a commercial world such as the shipping industry, where every facet of the business is dictated by the global economic condition, but this is no excuse for the violation of human rights that we have seen on the seas.

Despite the establishment of regulations and provisions, seafarers are still subjected to different forms of abandonment, including physical and mental abuse, sexual assault, torture, inadequate medical treatment, substandard quality of life, lack of liberty, and lack of access to proper fair trial or any other legislation, especially when they are abandoned in foreign port States. Moreover, seafarers meet complex issues of immigration status and repatriation while they are suffering from abandonment. Therefore, more needs to be done in order to effectuate policies that translate into actual change in how abandonment cases
are handled by international bodies. Perhaps the first step in this process would be to include the terms 'human rights' within laws such as the MLC 2006, that they may no longer be overlooked.

Presently, a number of treaties and conventions are adopted, but such measures will be in vain if they are not fully implemented by all the member States. In reality, even the UN treaties and similar international agreements issued by other international bodies, which aim at protecting the rights of seafarers, have been ignored by flag State entities in favor of the commercial interests of their registry and the business income obtained from the shipping sector.

We need more legal representation and action from governments, non-governmental organisations, and charities which aid abandoned seafarers. We need more associations that monitor seafarers’ circumstances at port States to receive, render, and report information to representatives of international bodies, UN agencies, or legal advisors at port States hosting seafarers. Seafarers need more drop-in centres that they can contact easily for receiving timely support. We need to clarify the responsibilities of the port State, flag State, and the States of the seafarers and shipowners in cases of abandonment and there needs to be independent oversight to assure their application. The term human rights therefore needs to be embraced and promoted in the maritime community. Abandonment needs to be identified as a crime by the shipowner, and not the seafarers. Maritime recruitment agents also need to be regulated and monitored.

All of these actions will contribute to easing the unnecessary and unjust suffering of abandoned seafarers, and to ending the human rights abuses that are still occurring at sea.
Kish: An Example of Some Positive Actions

The Kish abandonment case provides some examples of how to positively handle abandonment cases. Port State authorities on Kish never allow shipowners to leave the seafarers on board abandoned ships due to its strategic location in the Persian Gulf. For this reason, marine companies establish workplaces on Kish Island or they accommodate seafarers at hotels. Seafarers have support from the Immigration Department on Kish who helps them to push ship owners to arrange their wages and repatriation.

Practically, this system works and we can consider it in some respects as a global model.
References

Books


Journal and Magazine Articles


*World Maritime University Dissertations*. 249.

http://commons.wmu.se/all_dissertations/249


**Case Studies**


International Conventions


Presentations


Internet Sources


ISF/ITF wartsila.com, Historic agreement’ on abandonment of seafarers, 12 March 2009.