



**SEAFARERS ABANDONMENT: THE CANCER OF THE SHIPPING INDUSTRY**  
ISSN 2957-8647

**Halimat Adepeju Adeniran\***

Osun State University, Nigeria

Vol. 2

pp. 1-16, March 2023

[www.cavendish.ac.ug](http://www.cavendish.ac.ug)

email: [secretaryculj@cavendish.ac.ug](mailto:secretaryculj@cavendish.ac.ug)

**How to cite this article:**

*Adeniran, H. (2023). Seafarers abandonment: The Cancer of the Shipping Industry. CULJ Vol 2.*

**Abstract**

*The environment in which seafarers work is one of extreme hardship and seclusion. The issue of abandonment is one that has eaten deep into the fabrics of the shipping industry. Abandonment mainly occurs when some ship-owners are negligent of their crew's welfare. This can result in seafarers being abandoned in ports or at sea far from their families without basic necessities for sustenance such as food and water and also without being paid for months. Ship owners sometimes face financial challenges or sometimes they believe that they can make more money by refusing to pay the wages of their crew members, as a result, they abandon them at sea or ports. This may be more frequent in ships that are old and almost unsafe to sail. In some cases, the money owed is more than the worth of the ship and other debtors. Vessels may also be abandoned because they are not seaworthy and are being detained by port state control after inspection. The fundamental obligations of the ship-owner to the seafarer are to pay repatriation cost to the seafarers, to ensure food, water, and other necessities are available to the seafarer on board the vessel, and to pay their wages on time. Breach of any of these obligations is what is known as abandonment which is the focus of this article. In this article, history of seafarer abandonment will be examined, the rights of the seafarers as provided in the Maritime Labour Convention, effect of seafarer abandonment and the remedies available to seafarers when they are abandoned will all be discussed.*

**Keywords:** Abandonment, Seafarers, Rights of abandoned seafarers

---

\* LLB(Ibadan), LLM Commercial and Maritime Law (Swansea), BL Lecturer, College of Law, Osun State University, Ifetedo Osun State, Nigeria [halimat.adeniran@uniosun.edu.ng](mailto:halimat.adeniran@uniosun.edu.ng) +2347057338543



## Introduction

Abandonment refers to the act of unilaterally severing ties with the crew members on board a vessel. Seafarer abandonment is most times a calculated economic decision made by the owner of a ship experiencing bankruptcy or insolvency; it can also be made when creditors arrest the vessels. When the seafarers are abandoned on their ship, they start running out of necessary supplies such as food, water, and so on. The ship owner will become incommunicado, or sometimes when the crew members manage to get in touch with the ship owner, he makes empty promises. This abandonment not only affect the crew members, but their families at home who depend on them for survival. It is unfortunate that there is no legal Framework that helps to protect the rights of these seafarer as this happens quite often in the shipping industry.

## What is Seafarers Abandonment?

Seafarer abandonment is a situation where the owner of the ship has stopped being in communication with their ship. This is an amazingly common event, which occurs when dishonest vessel owners desert their ships due to financial challenges or because of legal conflict. The ships are left in port or at anchorage, most times due to the fact that there is no more fund for port costs, unloading fees and/or wages.<sup>1</sup>

Seafarers have to remain on board the abandoned vessels during this period to ensure that they are paid any wages they are being owed. These are wages which are often important in clothing, feeding, and educating family members back home, sometimes these seafarers may be from impoverished areas and could be supporting quite a number of extended family members at a time.<sup>2</sup> In the first two months of the year 2019, International Maritime Organization (IMO) continuously received messages from the crew of two vessels (Miss Gaunt and Northwind) that they were not being remunerated either by the owner of the ship or the insurance company, as a result they could not provide necessary means of livelihood for their family members back at home whom they had not seen for some months also the crewmembers could also not be returned back

---

<sup>1</sup><https://www.missiontoseafarers.org/about/our-issues/abandonment> accessed 10 November 2022.

<sup>2</sup>Ibid.

home because the port state claimed that the ship could not be moved to a safe harbor. The involvement of the International Maritime Organization (IMO) and International Labour Organization (ILO) made the crew members get their wages and also repatriated back to their home countries.<sup>3</sup>

## **Rights of Seafarers**

### **The right to safe and secure work place**

A safe and secure working environment is one of the most essential rights of seafarers. Vessels are one of the most dangerous places to work, because of this, the total wellbeing of seafarers working on board the vessel is extremely paramount. As such, all hands must be on deck to prevent the seafarers from being exposed to work-related hazards which can be avoided by complying with necessary safety standards.

### **The Right to wages**

The seafarers are entitled to be remunerated for their work consistently and according to what is stated in their employment agreement.<sup>4</sup> Any seafarer who wishes to send all or part of his earning to his family, legal beneficiaries or dependents should also be provided with a means to do so. In addition to the right to be remunerated, the seafarer should not be prevented from any form of remedy he intends to use to recover his wages. He is also not to abandon the right he has or right obtained in the nature of maritime salvage.<sup>5</sup> The Maritime Labour Convention (MLC) also specifies that equality should be observed in terms of remuneration. There must not be any form of bias in terms of race, color, gender, political opinion. The convention also advises imposing adequate penalties on flag state when the ship-owner defaults in payment of wages or when he delays in the payment as specified in the Seafarers Employment Agreement(The SEA).<sup>6</sup>

---

<sup>3</sup><https://www.imo.org/en/ourwork/legal/pages/seafarer-abandonment.aspx> accessed 13 December 2022.

<sup>4</sup> Regulation 2.2 MLC 2006.

<sup>5</sup><https://www.mondaq.com/nigeria/employee-rights-labour-relations/1033248/seafarers-rights-in-nigeria> accessed 1 January 2023.

<sup>6</sup> The SEA is valid for the tenure of a particular seafarer engaged on board a particular ship of the ship-owner. The ship-owner and the seafarer are signatories to this agreement.



### **The right to Fair Employment Terms**

Seafaring is worldwide profession, it cuts across many nations of the world, therefore international best practices are essential when drafting a Seafarer Employment Agreement. (The SEA). The Seafarer Employment Agreement must contain clauses such as the position on board, the amount of wages, and how the wages are to be calculated, the entitlement the seafarer will be entitled to while on leave, and in case of termination of the contract, the agreement should provide the necessary requirement needed, medical benefits, social security protection benefits, and so on.<sup>7</sup>The MLC 2006 requires states that are party to the convention to adopt law which incorporates at least 11 clauses in the agreement<sup>8</sup> including seafarers right to payment of salary and repatriation. The ship owner determines the duration of the SEA it can be for a specified period such as duration spent on board<sup>9</sup> a particular ship by the seafarer or for a specific journey between ports. It can also be for an unspecified period. Just like every other agreement, the SEA should also specify situations in which the agreement can come to an end which can either be based on requirement provided in the contract agreement, if the agreement is for an indefinite period of time or if the SEA is for a specified period of time, then the agreement should expressly state the termination date. Or if the agreement is for a particular voyage, the agreement should state the port of termination and the time in which the seafarer should arrive at that port before he can be signed off.<sup>10</sup>In cases of piracy or robbery, while the seafarer is held in captivity, or while the seafarer is abducted to shore, the SEA will continue to be valid. It doesn't not matter whether the SEA has reached its finished date or whether the seafarer/ship owner has given notice towards SEA's suspension or termination.<sup>11</sup>

### **The right to a decent living and working condition**

Due to the nature of the work of seafarers, they are usually exploited and exposed to unfair labor practice by ship owners which makes the right to an adequate working and living condition

---

<sup>7</sup> Op.cit.,5.

<sup>8</sup> Standard A2.1 Seafarers employment Agreement Paragraph 4 of MLC 2006 specifies the 11 particulars.

<sup>9</sup> Which cannot exceed 11 months including holidays as per standard A2 5.1 'Repatriation' paragraph 2(b) MLC 2006.

<sup>10</sup> Standard A2.1 Paragraph 2(c) MLC 2006.

<sup>11</sup> Standard A2.1 Paragraph 7 MLC 2006.

essential. It is important they have good working and living conditions as this will have a huge impact on their physiological well-being and also the quality of work done on board the vessel.<sup>12</sup>

### **The right to Medical, Welfare and Social Protection**

Seafarers are exposed to a lot of risk while at sea, and they are entitled to optimum medical protection and care while on board any vessel. Loneliness, separation from families are some of the most prominent health challenges seafarers experience; which affect their mental well-being. As such, seafarers should have access to fast and appropriate medical care from the flag state of the vessel as the wellbeing of seafarers should be as important as the welfare of people at shore.<sup>13</sup>

### **Right to Repatriation**

It is the right of the seafarers to be repatriated without any financial burden on them. And the onus to be repatriated is on the ship owner.<sup>14</sup> The MLC further provides that the seafarer is due for repatriation after the completion of the tenure which is provided for in the agreement. He can also be repatriated when the employment is ended by either owner of the ship or the crewmember himself, this situation can occur when the seafarer is unable to work either as provided for in the employment contract or due to certain circumstances;<sup>15</sup> for example shipwreck, health emergencies, ship sale, ship-owner bankruptcy, and so on. In addition, the flag states that are signatories to the convention are also required to prevent ship owner from deducting any amount at the beginning of the contract or from deducting repatriation cost from the salary of the seafarer except the seafarer violates his obligations under the SEA. The MLC 2006 also provides that where the ship-owner is unable to pay for the repatriation of the seafarers, a member state can take up the responsibility to ensure their repatriation.<sup>16</sup>

### **History of Seafarer Abandonment**

---

<sup>12</sup> Op.cit.,5.

<sup>13</sup> Regulation 4.1 MLC 2006.

<sup>14</sup> Standard A2.5.1 paragraph 2(c) MLC 2006.

<sup>15</sup> Guideline B2 5.1 'Entitlement' paragraph 1 (b) of MLC 2006 details a list of cases coming under the ambit of special situation.

<sup>16</sup> Standard A2.5.1 Paragraph 8 MLC 2006.



Over the last 20 years, over 9000 seafarers have been stranded on grounded ships which are dumped at the seaport.<sup>17</sup>In recent times, there has been an alarming cases of abandonment. From 2011 to 2016, the number of cases per year was between 12 and 19. After that, the number of cases started increasing, 55 cases were reported 2017, 14 were resolved that year and 8 were resolved in year 2018. 44 cases were reported in 2018 and 22 were resolved. Out of the total number of 40 cases reported in 2019, a little above 20 were resolved.<sup>18</sup>From First of January 2020 to First of April 2021, 111 cases of abandonment were recorded. In the year 2020 a total of 85 cases were recorded while the remaining was recorded in the first four months of year 2021. By the end of year 2021, a total of 95 cases were reported out of which 47 was resolved. The covid-19 pandemic had a huge effect on the seafarer abandonment of the year 2020. The pandemic complicated the shifts of the seafarers as many of them could not leave the ship at the end of their contract.<sup>19</sup>In2022, a total of 113 cases of abandonment concerning over 1500 seafarers were reported, out of these, 41 were resolved.<sup>20</sup> All these abandonment cases were not only stressful and unsafe for the seafarers, but also had a big impact on their families back home. Many of these cases had to be resolved by the involvement of various organizations like IMO, ILO, International Transport Workers' Federation (ITF), International Chamber of shipping and so on. Abandoned vessels are also of different types, 33.7%, of these vessels are cargo ships, 9.3% are bulk carriers, and about 7.3% are chemical products / tankers. Some of these vessels have been abandoned more than once. Others cannot be identified even though they exist, as IMO did not list the numbers.<sup>21</sup>Many of these ships are very old, it is noteworthy that the most common age for an abandoned ship is between 26-30 years.<sup>22</sup>Another alarming issue is how long it takes for an abandonment case to be settled. Since 2004, 30 vessels that were abandoned have been in dispute for over 10years with more than 400 seafarers still waiting for their cases to be resolved. On the average, a crew member can remain on board the ship for seven months before being repatriated. The longest time a seafarer

<sup>17</sup> <https://maritime-executive.com/editorials/rightship-over-8-800-seafarers-have-been-abandoned-over-past-20-year> accessed December 5 2022.

<sup>18</sup> <https://www.imo.org/en/ourwork/legal/pages/seafarer-abandonment.aspx> accessed 10 December 2022.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Op.cit.,17.

<sup>22</sup> Op.cit.,17.

has been stranded on board is 39 months.<sup>23</sup> Most abandonments seem to take between five and ten years to get resolved – which is quite a long time considering the fact that they are left confined, without money and unnoticed by most of the world.<sup>24</sup>

### **Categories of Seafarers Abandonment**

There are various categories of seafarers' abandonment, they are:

#### **Abandonment due to failure to pay Repatriation Cost to the Seafarer**

Repatriation means to send back. The right to repatriation of seafarer means the right of the individual seafarer to be returned to their home nation when something happens. From time immemorial this is an obligation of the ship-owner. This right was recognized under the repatriation convention of 1926 which was revised through C-166 Repatriation of seafarer convention 1987. Presently, the provisions relating to repatriation are provided in Maritime Labour Convention particularly in regulation 2.5 And these provisions are mainly based on the Repatriation of Seafarers Convention 1987 with some little amendments. According to the Maritime Labour Convention 2006, the right of repatriation to seafarers occurs in any of the following circumstances.<sup>25</sup>

- i. When the contract of employment of the seafarer comes to an end while he is abroad;
- ii. When the ship-owner ends the seafarer's contract of employment for lawful justification;
- iii. When the seafarers are unable to fulfil their duties as provided for in the employment contractor due to some circumstances may not be expected to fulfil them; The convention provides the ship-owner to make arrangement on how they will be returned back to their home country without charging any amount from them<sup>26</sup> If the ship-owner refuses to make repatriation arrangement to the

---

<sup>23</sup>Ibid.

<sup>24</sup><https://maritime-executive.com/editorials/rightship-over-8-800-seafarers-have-been-abandoned-over-past-20-years> accessed 22 December 2022.

<sup>25</sup> Maritime Labour Convention 2006 Standard A2.5.1.

<sup>26</sup> Maritime Labour Convention 2006 Standard A2.5.1,&3.



seafarer, then flag state of the ship should provide for the repatriation of the concerned seafarer. If the flag state also refuses or fails to do so, then the port state or the state in which the seafarer is a citizen may make repatriation arrangement and recover the funds from the flag state.<sup>27</sup>

**Abandonment as a result of Lack of Provision of basic necessities to seafarers:** One of the duties a ship-owner owes seafarer is to provide necessary amenities for the sustenance of the seafarer on board the vessel. The Maritime Labour Convention provides that the ship-owner must ensure that the seafarers are provided with good food,<sup>28</sup> good accommodation<sup>29</sup> and good medical care<sup>30</sup> on board the vessel. A seafarer is considered abandoned when the ship-owner refuses to provide these basic amenities and when these amenities are absent it can lead to humanitarian crises which the flag state of the vessel will have to address as it is the duty of the flag state that human right laws are adhered to at sea. When all these necessities are unavailable, it is the obligation of the ship-owner to call on charity organizations for help.<sup>31</sup>

**Abandonment due to severance of ties with the seafarers and non-payment of wages for two months:** Severance of ties may be due to the fact that the seafarers breached their responsibilities. For non-payment of wages to be regarded as abandonment, it must have been for two consecutive months. The most vital part of ship operation is the payment of wages as no seafarer can work optimally and efficiently without being paid; and non-payment of these wages is one of the major obstacles seafarers encounter in the maritime industry. This has a great impact on the wellbeing of the seafarer which in turn affects the safety of ship.<sup>32</sup> In recovery of wages, the seafarers have two remedies; they are action in rem and action in personam. Through action in rem, the claimant will

---

<sup>27</sup>Ibid.

<sup>28</sup> Maritime Labour Convention 2006 Regulation 3.2.

<sup>29</sup> Maritime Labour Convention 2006 Regulation 3.1.

<sup>30</sup> Maritime Labour Convention 2006 Regulation 4.1.

<sup>31</sup> A report of the International Transport federation “Out of Sight, out of mind seafarers, fishers and human right” <https://issuu.com/sdm2007/docs/humnrights> accessed 20 December 2022.

<sup>32</sup> Mohit Gupta, S. Shanthakumar ‘Seafarer Abandonment and vessel flag state analysis’ <https://hrcak.srce.hr/file/410810> accessed 15 December 2022.





arrest the vessel as a defendant and not the ship-owner, for an action in personam on the other hand, the ship owner will be arrested as a defendant.

### **Legal Framework for Abandonment Of Seafarers**

The main legal frameworks established to cater for seafarer's abandonment are the International Maritime Organization, International Labour Organization and the Maritime Labour Convention. These organizations have been instrumental in ensuring repatriation of seafarers and the payment of the wages of seafarers.

**International Maritime Organization (IMO):** The IMO was founded on March 6 1948. It was founded as a specialized agency of the United Nations. It consists of the Council, the Assembly and five committees including Maritime Safety Committee. (MSC). IMO has been helpful in ensuring quality global shipping around the world by improving safety, security and preventing the marine environment from being polluted.<sup>33</sup> IMO has also been involved in international quality shipping by making the human element one of its focus. The organization has also developed appropriate convention and guidelines to achieve quality international shipping. One of these conventions is International Convention on standards of training, Certification and watch keeping for seafarers (STCW) of 1978 which was amended in 2010. Also the International convention for the safety of lives at Sea 1974 (SOLAS) is the main instrument of the IMO that emphasizes that human life needs to be safe during maritime operations.<sup>34</sup>The IMO works with member states to remind them of their duties when an incident occurs and to let them know their diplomatic support is needed for example during the Covid-19 outbreak, the IMO set up Seafarer Crisis Action Team (SCAT) to assess developments, encourage and engage with every stakeholder and provide targeted assistance in specified cases and particularly difficult situations. SCAT works alongside ILO, the International Transport Workers Federation (ITF) and the International Chamber of Shipping (ICS) to provide solutions; cooperate with member states, non-governmental

---

<sup>33</sup><https://comitemaritime.org/wp-content/uploads/2018/06/The-fair-treatment-of-seafarers-in-cases-of-abandonment-A-Caribbean-perspective.pdf> accessed 20 November 2022.s

<sup>34</sup>Ibid.



organizations (NGOs) Trade unions or relevant associations and to reassure seafarers who contact IMO directly and guide seafarers to contact the right maritime organizations.<sup>35</sup>In addition, IMO and ILO have come together to form joint IMO/ILO Ad hoc working Groups to assist seafarers in claims for compensation for personal injury, death and abandonment.

**International Labour Organization:** The ILO an agency of United Nations Agency was founded in 1919. Its goal is to formulate labour standards, develop policies and set up programs that promote decent work for people. The founding mission of the ILO is based on the principle that social justice is the only avenue in which universal and lasting peace can be achieved.<sup>36</sup>Job security and optimum work environment are the important component to reduce job poverty and improve globalization. The ILO has a four pillar decent work agenda. These four pillars are job creation, right to work, social dialogue, and social protection. These pillars are anchored under Goal 8 (Decent work and Economic Growth) of the United Nation's 2030 Agenda for sustainable Development.<sup>37</sup>The ILO has put a particular focus in ensuring seafarers interest are protected given the hazardous nature of seafaring. Because of this shipping exclusivity the Joint Maritime Commission (JMC) was formed in 1920 and advised the Maritime sessions convened during each International Labour Conference (ILC) of ILO. JMC consist of a chairman, two governing body members (One employee, One Employer); twenty ordinary ship owner, twenty ordinary seamen members, four deputy ship-owner members, and four deputy seafarer members.<sup>38</sup> In 1920, ILO began to concentrate on seafarers with the 9<sup>th</sup> recommendation which called on states to adopt a national seaman's code to ensure seafarers understand their rights and obligations. Over the years, ILO has been involved in ensuring seafarer's rights are protected. Since 1920, ILO has been aware that seafarers are usually stranded at sea, as a result, the organization came up with Repatriation of Seamen Convention 1926. This convention provides the right to repatriation without any financial implication on the seafarers. Repatriation of seafarer's Recommendation 1987 which replaced Repatriation of Seamen Convention of 1926 introduced the obligation of the costal state

---

<sup>35</sup>Ibid.

<sup>36</sup>Ibid.

<sup>37</sup>Ibid.

<sup>38</sup>[https://www.ilo.org/global/docs/WCMS\\_162320/lang--en/index.htm](https://www.ilo.org/global/docs/WCMS_162320/lang--en/index.htm) accessed 18 December 2022.

to repatriate the seafarers where the flag state and the ship owner have refused to do so. The costal state was allowed to recoup the expenses from the flag state.

**Maritime Labour Convention 2006 (MLC):** The Maritime Labour Convention (MLC,2006) provides international standards for the world’s first truly global industry. Popularly known as the “seafarers’ bill of rights,” the MLC, 2006 was adopted by all attendees at the special conference of the ILO in February2006. The main objective of this convention is to achieve decent work for seafarers and to secure economic interests through fair competition for quality ship owners.<sup>39</sup>The Convention is comprehensive and sets out the seafarers' rights to decent working conditions. It covers almost every aspect that concerns their living and working on board the ship. The MLC 2006 is so important because it brings together International Minimum Standard that ensure decent work for the estimated 1.5 million seafarers around the world whose work is essential to International Trade.<sup>40</sup> Under the MLC, every seafarer has a right to a safe and secure workplace that complies with safety standard, fair treatment of employment, decent working and living condition on board ship, health protection, medical care, welfare measures and other forms of social protections.<sup>41</sup> As at April 2022, 101 countries have ratified the MLC 2006 covering more than 90% of the world’s shipping Fleet.<sup>42</sup>

### **Legal Status and Protection of Abandoned Seafarers**

Ships and seafarers are regulated by various different laws and international treaties; they are: laws of the ship’s flag state, the seafarer’s home nationality, and any country whose territorial waters the ship is being abandoned (i.e, the Port State) and the law governing the employment contract.<sup>43</sup>

**Flag State Law:** The Flag State is the country where the ship is registered. It is also referred to as the ship’s nationality. Section 91 of the United Nations Convention of the Law of the sea provides for the nationality of a ship. It provides that it is the responsibility of every state to fix the

---

<sup>39</sup>[https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/WCMS\\_219665/lang-en/index.htm](https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/WCMS_219665/lang-en/index.htm) accessed 10 December 2022.

<sup>40</sup>Ibid.

<sup>41</sup>Ibid.

<sup>42</sup><https://www.nautilusint.org/en/news-insight/news/mlc-now-ratified-by-101-countries/> 8 January 2023.

<sup>43</sup>[https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS\\_Abandonment\\_of-Seafarers\\_REPORT\\_APRIL21\\_SP\\_LOCKED\\_0.pdf](https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS_Abandonment_of-Seafarers_REPORT_APRIL21_SP_LOCKED_0.pdf) accessed 15 December 2022.



conditions necessary for the grant of the nationality of that state to the ship, for ship registration and for the right of the ship to fly the flag of the state. The section further states that the state will give the ship the necessary documents to enable her fly it's flag. There must be an authentic link between the ship and the state.<sup>44</sup> In essence, ships have a nationality and Seafarers on board have rights under the law of the flag state e.g A Nigerian seafarer on a Ugandan-flagged ship have rights under the laws of the flag state of Uganda, similarly a German seaman on a Greek-flagged ship will have rights under the laws of the Flag State of Greece. Flag state also has the primary responsibility of protecting seafarer's right. They also have a duty to exercise jurisdiction and control over vessels flying its flag.<sup>45</sup> However not all states offer the same protection. When ships are registered with a flag state, they will either register with open or closed registry. A closed registry is only available to ships whose owner is based in that country or a certain percentage of its crew are having the same nationality as the flag states. Some open registries on the other hand have relaxed admission requirement and are opened to foreign opened ships. Such registries are called flag of convenience.<sup>46</sup>

**Port State Law:** The port state is the country in whose territorial water the ship is abandoned. Port state exercise their control of the ship within their jurisdiction and step in where they believe owners and flag state have failed and refused to comply with the necessary requirements of International Maritime Conventions such as MLC, MARPOL<sup>47</sup>, and SOLAS.<sup>48</sup> This is known as port State Control and would include Coastguard Agency in the UK, Maritime Port Authority in Singapore etc. This control is usually exercised in the form of inspections performed on ships within their jurisdiction.<sup>49</sup> Under the MLC, Ports state have their obligations toward the seafarers who pass through their territorial or inland waters even if the owners or flag state are not upholding

---

<sup>44</sup> Section 91 United Nations Convention on Law of the Sea.

<sup>45</sup> Article 94 United Nations Convention on Law of the Sea (UNCLOS).

<sup>46</sup> [https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS\\_Abandonment\\_of-Seafarers\\_REPORT\\_APRIL21\\_SP\\_LOCKED\\_0.pdf](https://www.humanrightsatsea.org/sites/default/files/media-files/2021-12/HRAS_Abandonment_of-Seafarers_REPORT_APRIL21_SP_LOCKED_0.pdf) accessed 15 December 2022.

<sup>47</sup> International Convention for the Prevention of Pollution from Ships.

<sup>48</sup> Safety of Lives at sea.

<sup>49</sup> Op.cit.,43.



their rights, the port state is required to do so. Also there are organizations in the port states that provides supports to the seafarer and play a role in how Port State Control carries out its duties.<sup>50</sup>

**Law of the seafarer's nation:** Where the flag state and the Port states are unable to provide help as regards the seafarer's right, the National law of the seafarer can also assist. Countries understand that they need to protect the rights of their citizens anywhere they may be in the world and repatriate their citizens. Where the home nation is able to repatriate the seafarers, the home nation will recoup the cost from the Flag State of the ship.

### **Effect of Abandonment on The Seafarers**

Abandoning seafarerstakes huge toll on them. When a ship is abandoned, seafarers do not receive their due wages; and they cannot leave the vessel, if they do, they will lose years of unpaid wages, and a lot of money used to support their families and sometimes the entire community. Many have taken out loans that will be difficult to repay.As they are abandoned, charity organizations usually come to the aid of these seafarers, these charity organizations provide them with amenities such as food, water and other supplies, some also have to beg for food from other sailing ships which is very embarrassing.They also face issues with their documentation being in custody of the ship's management. Sometimes these documents may expire while they are at sea. Vessels without crews which are known as 'ghost ships' are also prohibited under international laws because they pose safety threat.The waiting has a huge effect on the mental and physical health of the seafarers, as it seems the separation from family and friend is unending, A crew member on a particular ship complained of missing family events back at home because he was stranded on the ship for several months.<sup>51</sup>Organizations like the International Seafarers Welfare and Assistance Network (ISWAN) step in where possible providing telephone for them to call their relatives and emergency funding when seafarers desperately need to go back home but lacks the wherewithal.There is usually nothing for them to do on board other than maintaining their living conditions and which may deteriorate. They are most times bored with so much fear, uncertainty

---

<sup>50</sup>Ibid.

<sup>51</sup><https://www.aljazeera.com/features/2021/7/6/abandoned-the-seafarers-stuck-onboard-for-two-years> accessed 7 December 2022.



and anger in them. They may also find themselves in conflict with their fellow colleagues or even the authorities, they are also susceptible to rumors and counter rumors. Ship abandonment also poses serious health risk on the crew members they may spread diseases amongst themselves which may ultimately lead to death.

An unfortunate instance of the unfair, unjust and inhumane treatment of abandoned seafarers can be seen in the case of a crew manned oil tanker, Capbreton<sup>1</sup> who asked the ITF for help with a wage request. The vessel had been bought by Nigerian owner from a French company, and during the sale, the crewmembers were advised to remain on board which they did. From the second quarter of year 2003 the shipowners stopped paying the seafarer's salary and by July of the same year, the Nigeria maritime police arrested the ship for being in Nigerian waters without the necessary and required permits. The owners allayed their fears by telling them to remain on board and that the matter will be resolved soon, and while being on board, they should continue to maintain the ship. After a while, their necessary supplies such as food and water finished. However, they still stayed on board hoping that their outstanding money will be paid; they contacted their respective embassies and engaged the services of legal practitioners to try and settle the matter amicably.<sup>52</sup>As their little efforts were futile, they took their complains to the press, their terrible living conditions and their unpaid salary made headlines of various news outfits. Their situation took a nose dive when they were accused of carrying illegal cargo of oil gotten from destroyed pipelines. They were taken to Prison in Ikoyi part of Lagos, Nigeria. These Unfortunate seafarers were prosecuted at a time the Nigerian government was fighting against illegal bunkering so they were seen as scapegoat. This led to a legal battle between the two owners each trying to absolve themselves of blame. The ITF and various religious organizations were of good assistance to the seafarers while they were locked up in prison. A seafarer developed a heart disease during this period and the embassies came to his rescue by providing funds to take care of him. The embassies also provided funds for transporting the seafarer from prison to court and back to prison. After 21 months in prison and series of adjournment which is typical in Nigerian courts, they were

---

<sup>52</sup> International Labour Organization , database on reported incidents of abandonment of seafarers [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=18&p\\_search\\_id=210423212150](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=18&p_search_id=210423212150) accessed 5 January 2022

released November 30 2005, returned back to their country and paid their wages arrears, unfortunately, they were not compensated for the mental and physical distress they experienced caused by the unfair and inhumane treatment.<sup>53</sup>

### **Remedies Available to Abandoned Seafarers**

**Maritime Lien:** The seafarers have a maritime lien under various international conventions and many national laws to secure their right to wages and other entitlements and the cost of their repatriation. To enforce the maritime lien, the ship is arrested and sold by court order to pay for wages. The seafarers can continue to earn wages and other entitlement while pursuing their claim in court. In this situation, the seafarer is regarded as a secured creditor so that the high ranking of the seafarer's claim for wages and repatriation is not impaired by the insolvency of their employer.<sup>54</sup> However a seafarer may lose his right to a maritime lien in certain circumstances, for example in some countries, if they desert the ship, they may lose their right to maritime lien. Desertion means leaving the ship before the completion of the voyage or before the contracted employment period, also a maritime lien can be lost if the seafarer does not commence the legal proceedings within one year of the wages being due, also if the legal proceedings have commenced, the seafarer is expected to still remain in the country even if he doesn't remain on the ship.

**Right to arrest a sister ship:** When a seafarer has been abandoned and the ship cannot be detained to enforce the provision of the Maritime Labour Convention, or it cannot be arrested to enforce maritime lien rights, a sister ship may be detained in place of the ship on which the seafarers worked. The arrest of the sister ship secures the claims that arises out of the contract with the ship-owner for wages, food, drinking water and repatriation cost. The right to arrest a sister ship extends to ships of the same owner and, in some countries is extended even further to associated ships, that

---

<sup>53</sup> International Labour Organization , database on reported incidents of abandonment of seafarers [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=18&p\\_search\\_id=210423212150](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=18&p_search_id=210423212150) accessed 5 January 2022.

<sup>54</sup><https://seafarersrights.org/seafarers-rights-fact-files/abandonment> accessed 20 December 2022.



is, ships that are being controlled by same company as opposed to ships that are being owned by same person.<sup>55</sup>

**Right to court order:** The seafarer can file an urgent petition before the court without informing the ship-owner to obtain an order preventing him from removing his ship, a sister ship or any other valuable asset from the country where the seafarer has been abandoned. The court order can even apply worldwide to the ship-owner's assets and be enforceable by foreign courts. If the seafarer has identified the ship-owner's assets and can show that there is a risk of the assets being taken away, the court may order the ship-owner not to remove his assets if it is fair and expedient to do so, any judgement gotten against the ship-owner based on the employment agreement can be enforced against these assets.<sup>56</sup>

## Conclusion

From the foregoing, it is evident that the Seafarers are an essential workforce. Their Importance cannot be overemphasized. They guarantee operation of an important economic pillar in a globalized world as result, they need to be well catered for. There is a need for all hands to be on deck to ensure their adequate welfare. It is unfortunate that ship owners don't get sanctioned for abandoning their seafarers except the financial distress they experience. The International Community has been actively seeking to protect the rights of seafarers, there is also the need for seafarers to be more enlightened of their rights under the various International Conventions and their rights when they have been abandoned such as right to be repatriated without any financial cost on them, right to a maritime lien, right to arrest a sister ship and so on. Seafarers also need to save themselves by ensuring they reduce their risk of abandonment by ensuring they enter into a well written agreement with a ship owner who has a good reputation and a collective bargaining agreement.

---

<sup>55</sup> Ibid.

<sup>56</sup>Ibid.



