Analysis of impact of the maritime labour convention, 2006: A seafarer’s perspective

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ABSTRACT

The primary objective of the article is to analyse the ILO’s Maritime Labour Convention (MLC) 2006 and bring into light, a few of the problems faced by the seafarers. Before the intervention of the MLC 2006, a lack of a relevant body to uphold labour rights and standards in the shipping industry was undeniably observed, the MLC convention, through its regulations, has prescribed a firm set of guidelines for the intensely globalized shipping sector, with some exemptions, of course.

The article provides a brief overview of the convention and, shipping industry and the crew that runs it. A few loopholes or favouring circumstances that are being used by shipping companies and flag states to reduce the burden of implementing some clauses of the convention are identified. Data from various published sources are collected along with personal experience and views to gain an overview of how the implementation of MLC 2006 has affected the seafarers. A brief review of the predicaments faced by the seafarers in this industry is also covered and concludes on the statement that although adoption of MLC 2006 is a historic achievement, without the proper implementation it won’t take long for the convention’s reputation to go downhill.

Shipping’s overview

Without those who work at sea, “half the world would freeze and the other half starve” (Efthimios Mitropoulos 2005). The everlasting calibre of the shipping industry to extend economically beneficial and competent long-range transport positions it at the core of the world’s economy (2020a). Shipping is the conclusive scope of the maritime sector to transfer goods and materials from production point to the consumption point underpin modern life. As per the 2019 data analysis, the world shipping trade’s total value, annually calculated, has crossed 14 trillion US dollars. Some 11 billion tons of commodities are shipped every year and increasing. The numbers of ships in the world are around 53,000, registered in 150 nations (ibid) The transport through the seaways roughly accounts for 80% of the total international business as opposed to any other transportation mode (UNCTAD 2020).

Raw materials allow countries to build industries, construct cities, houses and move population and transform resources into refined products for export. This ability to add value aids the developing countries to grow and tugs prosperity. Apart from this, large quantities of other necessary commodities such as petroleum products, chemicals, food essentials (for example, the most consumed coffee), manufactured goods are also transported by ships. Documented evidence shows that billions of tons of crude oil, iron ore and food grains are shipped to their destination by the sea route every year.

These shipments would not be possible without the efforts of approximately 2 million sea workers worldwide, who facilitates the shipping business around the world (Doumbia-Henry 2020) (Doumbia, 2020).

The international maritime industry is one of the primeval and most globalized sectors, with the beneficial ownership of ship and vessel operational jurisdiction often based in different states, referred to as the flag state and the crew onboard are recruited from various countries worldwide. Thus, the jurisdiction problem that is created and the paramount concern of ascertaining flag state responsibilities have been the matter of contention for the maritime industry since the 1950s“Doumbia-Henry et al., 2006”.

Shipping and seafaring

Shipping is one of the first globalised sectors of the world, and seafarers are the heroes behind the scenes, who should be attributed to the success of the sector. Seamen are often categorized as an exceptional category of people, because the profession forces them to
spend a hefty portion of their lives working at sea, away from social life.

The government of Australia, after the incident of loss of six bulk carriers off the Western Australian coast in 1992, propagated the revolutionary “ship of shame” inquiry. The result of the enquiry established that, even after almost 200 years of legal recognition of the special vulnerability of seafarers, they are still continuing to tolerate perils of exploitation, victimization and mistreatment (Carey, L., 2017).

Seafaring, as a profession, is an intrinsically nerve-racking environment as numerous stressors affect the seafarers. A few of the prospects of seafaring such as simultaneous working and accommodating in the same confined environment of the vessel, lack of nutritious food or fresh food, restricted social contact and isolation from loved ones, lack of social contact for long durations, noises and vibrations within the vessel due to engines, and rolling of the vessel because of rough weather conditions may all be categorized into vital stressors affecting seafarers. Many stressors concerned with seafaring are considered chronic (Hystad and Eid, 2016).

Fatalities at sea causes related to work are evident in all fleets globally. Historically, evidence suggests that of all the occupations in the UK, merchant seafaring vessels and trawler fishing have been the most hazardous. In research conducted for periods between 1976 and 1995, where fatal accidents were compared for British workers in different occupational zones, Fishermen and seafarers were 52.4 and 26.2 times simultaneously more likely to have fatal accidents at work (Carey, L., 2017).

The international labour organisation

In 1919, the ILO was established under the “treaty of Versailles” after World War I and became the first specialized agency of the UN in 1946, to upgrade the measures of civic rights and justice, and consequently, chip in to the improvisation of global and lasting peace. From the year 1919 to 1997, ILO adopted a total of 181 conventions and 188 recommendations which involves, but not limited to fundamental human rights, labour administration, terms of employment, conditions of work and life, social security status, occupational & hazardous safety, vitality and job placements of exceptional classes, which includes seafarers (ILO 1998).

The ILO has the mandate to formulate international labour standards. It also sets minimum standards of basic labour rights (ILO 2010). In the early 20th century, ILO considered seafarers under special considerations. Maritime labour standards were addressed by ILO under special sessions since 1920, which comprehended working hours and manning levels, recruitment and placement, seafarers’ employment agreement, seafarer’s living conditions, food and catering, the attainability of medical treatment among other recommendations. From 1920 to 1996, 39 conventions, 29 recommendations and one protocol pertaining mariners were adopted (Maunikum 2007).

The maritime labour convention 2006 encapsulates most of the previous legal instruments under one convention. The aim of introducing the MLC was to accomplish a “level playing – field” for qualified vessel owners and simultaneously to ensure the protection of the seafarers. It scrutinizes all aspects of seafarer protection and constitutes the tasks, responsibilities and liabilities of flag states concerning labour plights and provisions, recruitment of crew and social concerns of seafarers onboard their vessels (ILO, 2010). The potency of the MLC 2006 and its significance in the management of vessel is highly inclined on the degree of its application.

The most vulnerable and in need of implementation of the MLC are small vessels and tugs not plying under any large offshore projects. Crew members onboard these vessels still face this plight of not been rendered basic safety measures such as the PPE. The Crew is still being exploited by small companies on the matters of repatriations and nutritious food.

We are looking at the outcome of the implementation of MLC by judging the shipping giants like the MSC or the MEARSK; they never needed assistance for basic seafarers’ rights. The implementation should be focused on vessels that do not berth at internationally recognised ports, where the port states are lenient.

What is maritime labour convention

History

The MLC 2006 is an internationally acclaimed labour convention adopted at the 10th maritime session and the international labour conference’s (ILC) 94th session on 23 February 2006 (M. L. McConnell, 2011). It dictates seafarers’ rights to decent working conditions, also referred to as seafarers’ bill of rights. It came into effect on 20th August 2013 (McConnell, 2011).

The consolidated MLC 2006 was formed as the outcome of a joint resolution in 2001 by the international seafarer’s and vessel owner’s organizations and corroborated by the government. The convention was tailored to emerge as a globally recognized legal instrument for quality shipping, as deemed the fourth pillar of the shipping industry and marine law, and which will complement the three key conventions, also known as the three pillars of the maritime industry – the SOLAS, 1974, as amended, STCW 1978, as amended and, MARPOL 73/78 (Maunikum Veganaden, 2007).

The convention embodies all the requirements of previous conventions and recommendations related to
maritime labour. Thirty-seven of the ILO conventions were closed down for ratification after the entry of MLC 2006, as all those are now covered under one convention. It also means that ratification of the new MLC 2006, for any specific state, means denouncement from these 37 conventions automatically, as soon as MLC 2006 is in force.

Juan Somavia (director-general of ILO) quoted as “making labour history” for over 1.2 million seafarers working worldwide, when the ILO adopted the MLC in February 200615.

**Ratification**

Ninety-seven states accounting for over 91% of the world’s marine industry have ratified the convention as of September 2019. The convention has a widespread effect, even though worldwide ratification of the convention has not been achieved, yet vessels from non-ratified states that urge to provide their services at terminals of ratified states are obliged to give access for MLC inspections as per the convention and may face consequences for non-compliance with the MLC (See ‘Maritime Labour Convention-Wikipedia’).

**About the convention**

MLC 2006 has the status of an internationally acclaimed legal instrument. And therefore, it is not applicable straightaway to vessel owners, vessels or the crew of vessels under ratified states. Alternatively, like all international laws, it must be invoked through national laws and/or other measures by the ratified countries. These laws would then be applicable to ship owners, vessels or the crew of vessels under ratified states. The MLC, 2006, in its regulations, has laid down the minimum standards that are mandatory to be fulfilled by all states that ratify it.

Proprietors of vessels registered in the ratified states must comply with the national laws and applicable other measures. MLC vouches for the standards of minimum hazard-free working environment and conditions of life for seafarers. Under MLC, every seafarer is entitled to a safe working environment, fair and legally binding seafarers employment agreement, right to repatriation, decent rest and work hours, good accommodation and catering services, access to basic medical care, social protection and welfare measures. There must be no forced labour or any sort of discrimination and have the right to associate and bargain collectively See SRI and ITF releases educational videos on the day of the seafarers (2015).

MLC 2006 was designated to accomplish many superior levels of ratification than its predecessors because it includes of all previously required convention under one roof and also to implement indirectly to proprietors of ships and also to shield seafarers engaged onboard ships registered and executing under non-signatory flag states. It affirms to institute an unbroken “compliance awareness” along all stages, at the national system of security and the international system. This begins at home, with every seafarer committing to get acquainted with their rights, who under the provisions of MLC 2006 are obliged to be well aware of their personal and occupational rights at all stages of their working agreement and must be properly informed plausible actions that could be taken on the seafarers part in case of any discrepancies about the compliance with the requirement of MLC 2006 and the right of seafarers to make legitimate complaints of any non-compliance, both onboard the vessel, to the appropriate officer or the master and ashore, to a competent authority, is enlisted in the convention.

The MLC 2006 is sorted into three vital categories: the first one being the articles, which demonstrate the broad principles and liabilities, followed by the regulations, dictated in very comprehensive terms and the third is the code, which complements the regulations by providing intricate measures. The code is divided into two parts. Part A: standards and Part B: guidelines; both the parts are systematized and conjoined together according to their subject matter. The new MLC utilized a “vertically integrated” strategy in demonstrating the regulation and the provisions of the code under five categorized tiles with a systematic numbering arrangement that conjoins the correlated Regulations, Standards and Guidelines (Maunikum Veganaden, 2007).

**Flexibilities in favour of the ratifying countries**

It’s noteworthy that many of the provisions of existing conventions related to maritime labour before MLC 2006 concerning the method of implementing basic rights of the seafarers, were transferred to part B: guidelines of the code, which comes under non-mandatory for ratifying states, as PSC officers also don’t check for the compliance of the same. Their placement in the mandatory regulations could have definitely the ratification by many states.

The MLC 2006 assays to be “adamant on seafarers rights but limber on the implementation part.” The convention lays out, in firm statements, the elementary rights of mariners to decent working environment and condition of life onboard, but drops a huge question mark on “how the states will implement these decent work standards in their national laws?” The convention has shown ample flexibility in terms of implementation for the ratifying states. See ‘MLC- Wikipedia’

Some areas of flexibility are-

- Under MLC, national implementation is not obligatory through legislation; it may be done in
different ways unless stipulated otherwise in the convention, which means every member state has the liberty to make decisions on whether or not a specific provision of the convention should be incorporated in law, regulation or implemented through other measures. In cases where legislation is not explicitly mandated by the MLC 2006, such cases could be handled with other legal measures or CBA or, perhaps when provisions of MLC 2006, particularly related to being acted upon by a government itself, through internal administration instructions. See ILO’s ‘Compendium for maritime labour instruments, Second (revised) edition 2015’ frequently asked questions.

- Several of the obligatory specialized prerequisites of extant conventions related to maritime labour before MLC, 2006, some of which had indeed posed challenges for some fascinated states in ratifying, have been conveniently moved to the part “B” of the code of convention (Ibid). Some seafarers as well as some industry entities saw MLC2006 as a rather weak convention, which lacks implementation procedures and which did not significantly alter the condition of life at sea (Ibid).
- Issues facing by seafarers which include, but are not limited to temperature control or interpretation of healthy and nutritious food, sizes of crew cabins, restrooms and cupboards are not addressed by the convention. The convention also fails to contemplate the issue of rest hour during joining a vessel. These issues are left alone to be dealt with by the company and vessel management alone (Ibid).
- Verification of the execution of the provisions of the part “B” onboard vessels is not evidently processed by PSCOs during port state inspections.
- In certain cases, the mandatory part “A” implementation may also be executed through considerably corresponding measures.
- While the inspections for compliance with the convention is a necessity for all vessels under ratifies flag states, flag state administration are not mandatorily required to issue certificates for vessels under 500 GT unless the same is requested by the ship owners.
- The convention acknowledges that a few of the flag state administrations are at liberty to use recognized organisations (ROs) such as classification societies, on their behalf, to conduct prospects of the vessel survey and certification.
- Provisions’ concerning vessel’s build and equipment are not applicable to vessels built before the MLC 2006 came into force for each individual flag states in question. Vessels under the gross tonnage of 200 GT may be exempted from certain categorical requisites concerning accommodation.

- Provisions are in place (article VII) for states that don’t have national organisations of seafarers or vessel owners for consultation when utilizing versatilities under the provisions of MLC 2006.

In regulation 4.5, concerning social security scope, clause is in place for national circumstances and multilateral and other arrangements. Despite the fact that the objective of the regulation 4.5 is that all the mariners, irrespective of their country of residence, nationality or the flag of vessel they are serving on, should be entitled to be safeguarded under an extensive social security coverage, whereas providing such extensive coverage immediately is not mandatory, but to progress in that direction: “to take steps, according to its national situations . . . to attain in a progressive manner, an extensive social security coverage for mariners” under the proposition of MLC, 2006, for each ratifying state (Ibid).

Apart from a handful of explicit evictions, the new convention covers all vessels. Nonetheless, vessels and crafts involved in fishing, vessels of traditional build, naval fleets, or vessels whose navigational areas are solely limited to inland waters, in which port regulations are applicable, are not dealt under the MLC 2006. There are some stipulations for providing an exemption for smaller vessels (200 GT or less), which does not engage in international voyages from some of the requisites of the MLC 2006. The certifications from flag states and inspections of the port state are only applicable to vessels over 500 GT, involved in either international voyages or transiting among foreign ports (Maunikum, V., 2007).

I feel that the convention should apply to all seafarers, irrespective of the GT of the vessel, as many seafarers working in an offshore industry often keep shuffling between different kinds of vessels, which include crew boats and small tugs among others. So, working on smaller vessels should not deprive a seaman of his rights.

**Port state control & its importance**

PSC is a state’s administration for inspection of vessels of foreign flags in a terminal other than the flag state’s and reserves the right to enforce appropriate measures upon vessels, which are non-compliant with international codes and conventions. PSC officers (PSCOs) are obligated to inspect vessels and check conformity with regard to the requisites of international conventions, such as MARPOL, SOLAS, ISPS, STCW, ISM, and the MLC (See ‘Port state control – Wikipedia’). To inspect the compliance of MLC, the declaration of Maritime Labour Compliance (DMLC) serves as the prime evidence for
the PSCO that the ship meets the MLC standards. See 'port state enforcement of ILO MLC- ICS issues free advice to ship-owners (2013). Since the 1980s, certain regional treaties have been signed, termed as the Memoranda of Understanding (MoU), to standardize, correspond and synchronize PSC inspections.

Regional port state controls, like the Indian Ocean, Tokyo, and Paris MoUs among others are obliged to eradicating below-standard shipping via territorial collaboration and harmonized port state surveys. The PSC officials’ reserves the authority to scrutinize for deficiencies and detain vessels that are found unseaworthy, and make sure that the shortcomings are redressed before they are permitted to commence any further voyages. The acquired facts are shared mutually among the different MoUs to aid them in choosing ships for survey in their region. This regime has been exceedingly competent in strengthening the levels of seaworthiness of the commercial fleet. The PSC endures to be an omnipotent tool for implementing conformity with the maritime law (Carey, L., 2017).

Port states that have ratified the MLC can inspect any vessel entering into their ports irrespective of the fact that the vessel’s flag state has not adopted the convention. Seafarers can complain onboard or onshore if the MLC has not been met and a ship can be detained until any such problems have been addressed. See SRI and ITF releases educational videos on the day of the seafarers (2015). AMSA has restrained the services of a couple of vessels over unpaid wages in the past. “If the PSC officials of other nations also adopt the same viewpoint, then the mariner’s unpaid wages predicament would have a solid ground to be resolved and the legal costs and the formal vessel arresting won’t be deemed necessary in this matter” says Captain Robert Gordon, MD of SeaProf (Singaporean maritime education provider) See ‘port state control enforcement of MLC can eradicate crew abandonment’ (2017).

The elementary obligation for ensuring the vessel’s yardsticks of seaworthiness resides with the flag state, but the PSC renders a “safety net” to haul substandard ships. If there is a thorough flag state inspection, there would be no need to have port state inspections. So, in other words, port state control is one of the tools to help in cross-checking and verifying the obligations of the flag state (Maunikum, V., 2007).

In a research conducted by M. L. Fotteler, D. A. Bygvraa and O. C. Jensen, data reported between 2010 and 2017 by seven out of world’s nine MoUs were evaluated to uncover the effects of MLC 2006. In this period, the overall yearly non conformities took a fall across most MoUs whereas; total number of surveys in a year persisted, on an average, constant for most MoU’s. Thus, the mean of non conformities found per survey fell in this period. Results regarding condition of work and life onboard show an increment in the number of deficiencies across all MoU’s except Caribbean MoU. Six MoU’s registered a reduction in non conformities overall, it can be rendered as constant betterment of the condition on merchant vessels. Majority of the MoU’s registered a boost in the ratio of WLC – related non conformities, an indicator of surging emphasis on the implementing the MLC2006 (Fotteler, Bygvraa, and Jenses 2020), whereas it’s noteworthy that given the condition of the seafarers before the implementation of MLC, the numbers should have been far more than what is recorded.

In my personal opinion, there is still a huge gap between the actual condition and the implementation taking place. I have noticed that all these PSC inspections are mostly taking place in ports with good infrastructure and stringer rules of the ports. A lot of ports with less traffic are not inspected with the same intensity as the aforementioned, which leads to a vast discrepancy when comparing the number of inspections and the WLC-related deficiencies.

Another factor can be the limited number of PSCOs, which leads to a selected number of inspections at a given point of time, and some non-compliant vessels may be benefitted by the same.

Limited time at the port for the cargo operation of vessels, and non-operative PSC inspections at night, gives limited time for PSCO to conduct a thorough inspection of the vessel.

Review of the MLC (titles 1, 2 and 3), 2006

Tile 1: Minimum requirement for seafarers to work on a ship

This section administers the basic requirements for seafarers to qualify for working onboard, which are summarized into four parts, which are age requirements, medical prerequisites, training and recruitment/placement services.

Medical fitness
It states that seafarers have to be medically fit, with a certificate issued by an approved doctor for duties that they’ll be assigned onboard as per STCW. As per the medical standards of MLC, most of the ratified countries are providing a medical certificate with an average validity of 2 years. As we all are cognizant of the fact that the STCW regulations and medical standards specified within for seafarers are the same anywhere in the world, yet the medical issued by one nation is not accepted by another nation or company when a seafarer is switching companies, but still holds a valid MLC ratified country’s medical certificate.

For example, a medical certificate issued to an Indian seafarer in Malaysia as per STCW regulations is not accepted while joining another shipping company in the UAE, whose recruitment placement service provider in India needs an Indian directorate general of
shipping approved medical certificate to be uploaded in the DGS website. When all the regulations can be traced back to IMO & ILO, and regulation applies to seafarers are same for all, irrespective of the geographic location of the seafarer, why is it that a seafarer has to undergo medical, just because of proper lack of implementation and lack of countries trust on each other’s administration.

Many seafarers have undergone this situation, but as there is no way around it, seafarers have to follow the rules. To encounter this predicament, we must concentrate on creating an international format and recognition of doctors and clinics internationally to carry out medical examination for seafarers, which would be valid and acceptable worldwide within the prescribed validity period. This will at the least tackle one of the predicaments confronted by the seafaring community.

In a seafarer’s very restricted time onshore with his family, of which he has to appoint the time for new courses, up-gradation of courses and travel documents, going for medical examination before every joining, the implementation of the above criteria will bring at least a tinge of relief for the seafarers.

Training
It states that a seafarer should be well read and well trained for their responsibilities and they must undergo the minimum basic safety training as per STCW. Not only in the seafaring community but every operational working area, it should be and is mandatory to go through basic safety training to safeguard one from any ill-favoured incidents.

After working on different kinds of vessels registered with various flag states, I have discovered that flag of convenience is issuing basic safety training and advance courses without any training, this indeed is a massive area of concern for the entire seafaring community, because, seafarers due to different reasons, some of them being lack of knowledge on proper channels to join merchant navy, improper guidance, agents lucrative proposals, high fees of approved courses or just for the ease of processing and saving time, prefers to apply documents directly from the flag of convenience and join sea through agents who are willing to place candidates directly with no basic training, mostly for money, same goes for officers, the flag of convenience COC can be obtained based on experience. This poses a great danger at sea; this might indeed be added to the reasons for accidents at sea. As MLC proposes, proper training is mandatory, but who actually will be responsible for the implementation of proper training to seafarers, because the port state and flag state are more than happy to accept flag of convenience training documents.

The general secretary of IFT, Mr. David Cockroft, who was not acquainted with any maritime skills or prior experience, tried and succeeded in buying a Panamanian first officer’s certificate of competency in the year 2000 for a sum of 4,000, USD which facilitates him to work onboard on commercial vessels. Luis Fruto, the ITF representative in Panama, quoted that “Panama tends to keep a blind eye towards its responsibilities to facilitate procuring more vessels for registration.” Since the 1950s, the ITF has directed campaigns in opposition to the flags of conveniences. It regards that Panama registry is better than some “from a safety perspective, but it continues to be severely impaired on subjects like incident investigation, oversight and assisting with crew plights” Online document See ‘why so many ship-owners find Panama’s flag convenient’ (2014). Though Panama has stopped issuing certificates for the time being, it’s quite clear that the same is being processed by many other flags of conveniences. There are open advertisements for issuance for Dominican or Marshall Island, for that matter, many other flag state documentation on social media as well as newspapers, we all have come across such advertisements. The issuance of such seaman books and certificate of competencies has to lead to an increase of unskilful seaman in the industry, which in some cases is the basement for accidents. Prominent newspaper advertisements concerning seafarers’ recruitment from non-DGS approved agencies are on the rise. Under the MS Act, it’s our responsibility to exterminate such unethical and self-seeking activities, and service providers; but it’s clear that we are nowhere near succeeding.(See “10 Problems Affecting Seafarers Today.”)

The primary requirement for proper training, without a shred of doubt, is safety – safety of one’s self, of one’s colleague, crew members, the safety of property and environment. Considering the level of risk involved in the maritime industry, it is of towering significance that every seafarer is trained adequately in every aspect as per STCW. These trainings are of significance as it assists seafarers to face the harsh environment and troubles out at sea.

Recruitment/placement services-
As per MLC2006, no seafarer should have to pay to get employment, seafarers should as far as possible, be recruited through a manning agency or RPS, through union or part of CBA. The MLC2006 gives the seafarers rights regarding recruitment, under the MLC 2006, RPS must not charge seafarers for employment, the RPS must be licensed or operated in a way that promotes seafarers employment rights. The only costs that can be charged to seafarers are for national seaman book, passport or any travel document. The charges adhered to visas or related documentation must be borne by the ship-owners. Under MLC, RPS is not allowed to blacklist anyone, and prevent one from getting work for which they are qualified, withhold earnings, make
direct or indirect charges or use other unfavourable financial arrangements. See SRI and ITF releases educa-
tional videos on the day of the seafarers (2015)

The RPS has to check the seafarer’s qualification for the job and educate them with seafarers’ rights and responsibilities under the seafarer’s employment agreement and must provide ample time to properly study, understand and sign it. RPS is obliged to provide a copy of the SEA to the seafarers. They must make sure that their agreement complies with applicable national laws and make sure that ship-owners they work with are financially secure, they should also respond to all complaints, have insurance in place to compensate for any failure to meet their or the ship-
owners obligations to seafarers under the SEA. They are obliged to maintain an updated account of all seafarers that they have placed onboard (0000).

A colossal number of Indian seafarers are working in foreign-flagged vessels and companies with a small fleet of 1–5 vessels, coastal vessels or offshore support vessels plying in a specified field or a specific country. These kinds of shipping companies, who do have a proper licensed RPS in their operating country, but not in India, or for that matter, not in any of the countries from where they prefer to hire a part of their crew.

The director-general of shipping, the government of India (GOI) registered the ascending pattern in the complaints lodged from Indian seafarers conned by unauthorized recruiting agencies under the pretext of providing them jobs on foreign-flagged ships, and then it was made mandatory by DGS, GOI to get placement on foreign-flagged vessels only through registered placement and service agencies. The DGS approved RPSL holders are also obliged to upload particulars related to the sea service of seafarers in the e-governance system (See ‘notice DG shipping, GOI). They also introduced an e-migrate system in which the registered RPSL holders must upload the details of seafarers joining foreign-flagged vessels and this system was linked with the immigration department at the airport, who would get all the details related to the seafarer travelling to join a foreign-flagged ship, hassle-free.

It was indeed a comprehensive decision on the part of DGS, GOI to tackle major problems of sea-
farers who were not getting any assistance from unauthorized agencies for repatriation, medical aid, and compensation in case of an accident or the unfortunate demise of a seafarer, responsibilities related to get the mortal remains back or arranging compensation are seldom processed by non-regis-
tered agents. Such agents seldom indulge in assisting the crew or intervene in discrepancies related to wages/compensation, arising between the crew and their employers Ibid. This lead to a crew change crisis for companies who didn’t have a registered RPSL from DGS, GOI. But, this crisis was short held as many registered RPSL holders were and still are more than willing to provide RPSL letters to seafarers joining foreign-flagged vessels who don’t have a registered RPSL in India in return for compensation in the form of money. These RPS agents are not the approved crew manning agents for these aforementioned companies, but their letters are still valid to clear the immigration. In many cases now, unauthorized agents, whom the DGS has targeted for the betterment of seafarers, have tie-ups with registered RPS agents to issue joining letters and upload seafarers’ details in the e-migrate & e-governance system in return for money.

In a real-life event, one of my vessel consisted of 14 crew, of whom 10 were Indians, joined onboard the same vessel through 4 different RPS agents, the irony here is that none of the four RPS agencies was appointed by the shipping company for crew management of their fleet. All the crew members were previously employees by the company and were hired directly by the company.

These shipping companies are indeed reputed companies who follow the ISM, ISPS and MLC codes at the minimum, but due to their small fleet size, different nationality crew, tedious process of gaining approval of other country’s RPS licence, or to reduce the cost of maintaining crewing offices in every country they indulge in crewing with, refrain themselves to maintain crewing offices worldwide, such companies must have another option of hiring Indian seafarers or else a hefty lot of Indian seafarers would be unemployed. DGS must look into this matter and find an amicable solution that should be in the favour of Indian seafarers.

An internationally approved RPS licence should be considered, as it will facilitate shipping companies to get approved from an international body and be able to use that licence for a crew change of any nationality, keeping in mind, their rights, MLC requirements and other legislation, anywhere in the world. An integrated system will also help immigration departments, ship-
ning companies and other parties are interested in the seafarer’s sign-on/off dates to be crystal clear and will be refrained from any kind of malpractice.

**Conditions of employment**

This section of MLC deals with the condition of employment of the seafarers, which are summarized into eight parts, which are SEA, deals with the requirement of a legally binding contract, wages, sets out provision on the calculation of wages, hours of work and rest, which includes requirements on the mini-
mum and maximum working and rest hours, entitle-
ment to leave, repatriation, which favours crew for free repatriation among others (MLC, 2006).
Seafarers’ employment agreements (SEA) & wages
In my experience, SEA always contained fixed overtime and is not calculated as per the extra work and dedicated holidays allotted by national or international law, the regulated working periods at sea or in port must not exceed 8 hours a day, anything above that must be calculated as overtime until maximum working hours per week are met. A rate at more than one and quarter of the basic salary must be applicable for calculating the overtime allowance. But, the clause of MLC, which states calculation of overtime is just a formality, as MLC also states that you can offer a consolidated wage to seafarers, which includes partial or all overtime. MLC2006 states that “ship-owners must ensure a seafarer is paid in fully paid at a period of not greater than a month and in regard with his/her SEA and collective bargaining agreement (CBA), if applicable.”

As per the ITF website, every year, seafarer from approximately 1500 vessels lodge complaint regarding their vessel’s owner either being reluctant or is not in a position to compensate the crew’s pending salaries. Evidently, it may be the entire crew or apart of the crew that is affected. Most of the crew likely get their outstanding wages on completion of the contract, whilst some unfortunate seafarers are never paid at all, and some wait for months or even years to get a settlement of their pending wages. The employer involved in such unethical activities often uses bullying tactics, a promise of payment at the end of the contract, or small advances to try and keep their vessels operational. Unfortunately, many registered manning agencies are often sides with the owners in trying to get seafarers to continue to work without wages or to delay the payment of wages (See ‘Non-payment of Wages’).

PSC inspections and strict action on non-payment of wages can mitigate the wages predicament to some extent. AMSA has restrained the services of a couple of vessels over unpaid wages in the past. AMSA spokesperson quoted “failure of vessel-owners, managers or operators to compensate mariners in full and within stipulated time is evidently in violation with the MLC 2006. PSC has the right to detain vessels for this offence. In case of adequate proof of outstanding salaries of crew, AMSA will detain the vessels associated and it won’t be released until the matter is settled with the crew” (2017). Even after the implementation of MLC for 7 years, the problems of salary payments persist, it’s the most common problem reported by seafarers.

Hours of work and rest and manning levels –
In my experience, this clause has increased the paperwork of the crew but has not added anything to the working standards of the crew on board in any way. With limited number of crew on every vessel, there are always some emergencies arising everyday, which leads to the working of the crew at unexpected times. For example, a container feeder arriving at a port in early morning hours has its officers and crew oblige to standby at that time for an average of 3–4 hours to complete the operation, after which, in some companies, the crew of the vessel engages in lashing/unlashing processes, which most often leads to increase in the working hours more than the requirements. This phenomenon works fine if the vessel is transiting between faraway ports, but on feeder containers or smaller vessels that have a port of calls every 1–2 days leads to fatigue to the crew and the working hours never fit the requirements. Concerns for mariners working periods are extremely scorching in current times because the load on both operational and management level of seafarers has substantially skyrocketed, either because of an ascend in the intensity of the shipping business, better logistical support, less turnaround time or in reference of the new maritime laws, for example, conformity with the ISM code, the ISPS code requirements and others, which, apart from its perks, do add a lot of paperwork (Simkuva et al. 2016).

In a survey data, published by Simkuva, H in 2016, which involved 340 navigational officers, the following conclusion was held on work and rest hour’s periods.

Q. do you face any discrepancies with the STCW and the MLC regulations pertaining your work and rest hours onboard?
Only 1% of questionnaire responses were positive that no violations concerning to work and rest period are faced by them, whereas 34% of respondents answered that such inconsistencies are frequent, but 9% of respondents are unable to abide even with the minimum requirements regularly. Thus, a total of 44% of respondents has acknowledged that rest hours infractions are consistent (Simkuva, H, 2016).

Q. have you ever falsely fabricated your work and rest hours documents?
As per the analysis, the work and rest hour’s documents are misrepresented by 52% of the respondents. Almost one third, i.e., 29% accepts that they falsify the records on the Master’s instructions, to avoid non-compliance concerning the STCW and MLC conventions. Twenty-three percent admits distorting their records before the inspection, whereas only 31% responds that they never have to forge their records, all the overtime is properly registered (Simkuva, H, 2016).

In offshore vessels, many companies are only having master and chief officer, which automatically lead to extra working hours for them. Flag states also allot the same safe manning, and companies in most cases don’t care to hire an extra officer for ease of work. As the minimum safe manning certificate’s name
suggests, it’s the minimum requirement of crew and officers required to run the vessel, but the ship-owners take it as a benchmark for the required crew, never in my career has I seen a vessel with a crew more than the safe manning level.

Every vessel is maintaining a rest hour’s form, but seldom has it shown that the crew is working more than the desired working requirements, it’s just another piece of paperwork to be prepared every month. As per STCW, section A-VIII/1 paragraph 4, maximum working hours are stated at 70 hours per week, whereas MLC 2006 states maximum working hours at 77 hours. Masters are excluded from the requisites of work and rest hour’s period, while MLC 2006 states otherwise.

Repatriation
MLC gives seafarers the right to be repatriated back home without any monetary deductions on the seafarers part. Seafarers are entitled to free repatriation if the SEA expires, suspended by vessel-owner or by the crew for justifiable grounds, one can no longer carry out duties for example in the event of an injury or illness, a mariner is not expected to carry out or if the ship-owner does not fulfill their obligations towards seafarers anymore due to insolvency. The right to repatriation transport usually by air to the place where employment agreement was signed, country of residence or place set out in the CBA or otherwise mutually agreed with the ship-owner. The ship-owner must pay for the travel to the place of repatriation, accommodation and food during the journey, pay allowance for the duration of the journey if specified by national law or CBA, medical attention when required to ensure that seafarer is fit to travel and transport of 30 kg luggageSee SRI and ITF releases educational videos on the day of the seafarers (2015). A lot of cases came into the limelight where the crew are abandoned onboard vessels without being repatriated, or even without proper food and basic assistance to keep the vessels generators running. ITF Arab World and Iran Network are assisting many such cases in the Arab world (2020b).

The coordinator of the ITF Arab world and Iran network, Mohamed Arrachedi, which was set up proximately a couple of years ago, has quoted that “Abandonment is the cancer of the maritime industry,” he is dealing with 15 vessels now – vessels abandoned by ship-owners in the Middle East, which includes countries like Sudan, the UAE, Egypt, Yemen, and others. Arrachedi reckons that for every ten calls he receives, proximately seven are urge for help from seafarers abandoned on vessels without pay, food supplies and sometimes even diesel to keep to lights running, all of whom are in distinct situations, all afflicted with adverse living conditions, very difficult family restrictions, stranded in limbo waiting to go home. As per the ILO’s abandonment of the seafarer’s database, there are around 200 active cases of abandonment worldwide, of which the Middle East alone accounts for 80 cases (ibid).

In my personal experience, I have stumbled upon circumstances where owners try and succeed in deducting money for flight tickets when one needs to sign off on emergency grounds. There must be stringer regulations to check the repatriation details and salary slips issued to seafarers during inspections, to make sure that any unauthorized deductions are not made from seafarer’s accounts.

Entitlement of shore leave
MLC states “seafarers should be entitled to shore leave to boost their overall welfare, physically and mentally, and to be compatible with the operational and managerial requisites of their respective posts” (MLC2006, regulation 2.4-entitlement to leave).

“The biggest issue about shore leave is do mariners have time? As with any transport business, ships only make money when they are moving. A ship in port isn’t making any money. So there has been a huge move in turnaround times and make everything more efficient” says senior chaplain Stephen Miller.

With an average turnaround time of 8–10 hours and considering that seafarers are working three shifts, the chances are that two-thirds of that time they are either working or sleeping. Another issue is the reduction of the crew onboard when compared with a previous couple of decades; companies have focused on cost-cutting and implementation of modern technology with reduced crew onboard and then there are ports in the middle of nowhere. If you are on a tanker tied up 15 miles away on a buoy at the end of a long pier or in an offshore field 50–100 miles offshore, it’s impossible to get off. With ships now able to be notified of berth availability in real-time, they can deliberately slow stream between ports to avoid arriving too early, this means there is no opportunity for seafarers to get away and enjoy some time away. “It’s about making the port call as efficient as possible. Saving fuel and avoiding hanging around ports. That makes sense from the environmental point of view but it doesn’t help the seafarers cause. Efficiency is always regarded as an important thing, but everyone forgets about the seafarers” says the director of Cardiff University’s SIRC, Helen Sampson (See ‘addressing the shore leave lottery’).

Cost and accessibility are two other key issues preventing shore leave for seafarers from being taken. Most of the time, ports are so remotely located that it costs a hefty amount to reach city centres and the unpredictability of the ship’s timetable adds another pressure as seafarers cannot stray too far because they
must not delay the vessel if loading finishes a bit earlier than expected (Ibid)." Terms have to come forward to improve this predicament of the seafarers, as it’s difficult to get a taxi or other transport in a foreign port for seafarers, providing shuttle services to the nearest shopping mall, providing cafe/bar in the proximity of the terminal, can help seafarers a ton.

"In a perfect world, seafarers should be able to get off the ship. In reality, it is getting harder” quotes Revd Mille (Ibid).

**Accommodation, recreational facilities, food and catering**

This section of MLC manages the above-titled crew welfare measures, which are summarized into two parts, the first one being accommodation and recreational and the second is facilities food and catering.

In research conducted by Sampson, H., Ellis, N., Acejo, I., turgo, N., & Tang, L. Under the title of “the working and living conditions of seafarers on cargo ships in the period 2011–2016,” in which the seafarer’s living standard of life onboard various sector of the industry, i.e., cargo vessels, offshore, inshore (does not include cruise ship workers) were analysed. The following results were shown from responses from the questionnaires (n = 1533 (year 2011) and n = 1537 (year 2016)) collected by the team at the SIRC at Cardiff University (Sampson et al. 2018).

**Accommodation**

Stats related to sharing of cabins was relatively stable (14% in 2011, 10% in 2016), although substantially an increased number of respondents who shared cabins disclosed an objection towards the sharing adaptation in 2016. Similarly in case of shared bathrooms, the number of respondents accepting to use shared bathroom stayed comparatively consistent (24% in 2011, 21% in 2016). Contentment levels with respect to storage spaces onboard were comparatively consistent as well (66% in 2011, 70% in 2016). There has been no significant improvement after the implementation of MLC.

The capability for controlling temperature onboard stayed broadly stable and, in 2016, seafarers of all nationalities other than Chinese reported an improved capability in controlling electric light levels in the cabins.

In my experience, vessel size does matter a lot while deciding on the level of comfort crew can expect in terms of accommodation. In tugs, mostly crew has to share a dormitory, which cannot be argued given the limited space and restrictions to building bulky accommodations owing to the nature of the work of the vessel. MLC regulations do suggest a lot of requirements be made while building a vessel for which the keel is laid on or after the date when the MLC convention commences to be in effect for every individual member states concerned. Vessels build before the convention was in force, in most of the conditions gets exemption if there is any such breach to the convention. I have not come across any MLC inspector or PSC officers raising non-conformity with the accommodation part.

**Food and catering**

As per the research data, 79% of the seafarers responded that they have been provided with adequate food provisions in 2011, whereas, in 2016, the responses were at 82%, this administers to one of every five mariners notifying lack of proper food onboard merchant vessels. Only 56% of the crew onboard are content with the quality of the food, which I feel is very low even after MLC is in force.

Several companies adhere to a daily or monthly provision fee payment scenario for the crew, which is indeed a bad practice. The ship-owners must provide all the elementary provision items as is deemed necessary by the ship’s crew irrespective of the costs. It should be the responsibility of the vessel’s master and crew that the food provided is not wasted. Every vessel operator or the owner should be obliged to adopt adequate measures to guarantee the quality of nutrition and quantity of food provisions. This will primarily enhance mariner’s health conditions, thus, flourishing productivity and working scope (Hafez and Naim 1999).

One of the stealthy components leading to an occupational mishap has been recognized as acute under nutrition, and has been categorized amongst elements, which might lead to fatigue and reduction of concentration among seafarers (Hafez, 1999).

In the wake of COVID-19, several food correlated issues on merchant vessels, because of the severity of the issues, had made headlines in recent times. Recent years have witnessed various cases, where the crew onboard were allegedly struggling to get elementary food provisions whilst onboard the vessels, or being in situations where they completely ran out of the provisions. These issues are usually dealt by the local officials or welfare establishments, but numerous matters dwell unnoticed because they are not reported. For instance, one of the mariners interviewed by Dr Polina Baum-Talmor confided in her that how the organisation he worked for abandoned the vessel and how they were stranded off Argentina’s shore for a couple of years, without any elementary food provisions or fresh water. To sustain, they leaned on the generosity of mariners on other vessels and local people who sometimes gave them items of their basic necessities (2020c).
MLC 2006 comprises provisions with regard to the food requisites onboard, determining the basic prerequisites and yardsticks with respect to food provision, preparation, safety and training required for a merchant vessel’s cook. Nevertheless, as Oldenburg and others state: “a crucial appraisal of MLC divulges that the standards for food nutrition on merchant is neither standardized nor compulsory, but are adapted according to the standards of each member state.” This places food provisions in a grey area with regard to regulation and implementation of standards globally (Ibid).

Recreational facilities
A break from the monotonous job and an alteration from the accustomed daily routine of seafarers is what make recreational facilities of great importance, especially for the seafaring community. In a comparison of shore workers and seafarers, the amenities that permit mariners the fortuity for mental relaxation are exceptionally restrained on merchant’s vessels. This has degrading ramifications for the mental wellbeing of the sea workers and procures higher levels of tending from vessel owners and law governors as a concern for seafarers’ rights to acceptable environment of work and quality of life onboard as well as a question of safety of seafarers. A Seafarers International Research Centre’s (SIRC) study establishes a spike in the number of mariners exhibiting the recent encounter of psychological adversity, underlining the want for the argument to be handled compellingly (Sampson, 2018).

As per MLC guideline B3.1.11, furnishing under the category of recreational facilities should include a minimum of the following – a bookcase and provisions for reading, writing and where practicable, table and deck games (Chia, Ck., and Dev 2017). The following facilities must be contemplated to be included at no cost deductions on the part of the seafarer if the conditions allow:

a) a designated smoking room for the crew; b) television facility and radio broadcast; c) showing of movies, with adequate stock for the duration of the voyage and, replaced with new ones at reasonable intervals; d) library, with a renewal of content at stipulated intervals; e) recreational handicrafts; f) provisions of recreation through electronic media; g) sports equipment including facilities of a gym and other games; h) provision for swimming, if possible; i) the facility of bars onboard for the crew, if appropriate; j) communication through telephone, email and internet facilities within reasonable limits (ILO’s MLC 2006).

As per Sampson’s research data, a 3% increase in seafarers who could “never” go ashore when at the port from 2011, when 7% of seafarers reported the same. Internet access for seafarers has significantly improved in the period 2011–2016, as 61% of respondents reported that they did not have any access to internet facilities in 2011, which fell to 49% in 2016. Thought the number of vessels with an internet connection has increased, but when explored in further detailed, 46% (nearly half of the seafarers) were displeased in regard to internet speed, 35% were satisfied, and 19% did not have a view either way.

Email & ship’s phone access 39% of mariners in 2016, whereas 27% in 2011 had cost free and unrestricted accessibility to email on vessels. With access to the vessel’s phone, the data stayed consistent, 19% of seafarers reported that no access to the vessel’s phone was granted onboard in 2016, compared to 20% in 2011. Access without restrictions and cost free stayed very limited in both the surveys at a mere 3%. Majority of the respondents notified availability if mariners pay for it or accessibility with the Master’s consent.

Access to equipment and resources – no substantial transitions were distinguished from 2011 to 2016 in the provisions of some equipment and resources. Nearly similar magnitudes of respondents had accessibility to a computer terminal whilst off work (53% in 2011, 55% in 2016); a karaoke (52% in 2011, 51% in 2016); and games (50% in 2011, 48% in 2016), whereas reduced number of respondents in 2016 announced accessibility to a collection of DVDs (78% in 2011, 72% in 2016); music facilities off work (65% in 2011, 60% in 2016); a library (71% in 2011, 61% in 2016).

In my personal experience, most of the small vessel owners are not concerned about the recreational facilities, as it does not yield any monetary benefits and its absence is not going to cause any direct deficiency to the vessel. I have seen vessel owners providing the crew with a couple of deck of cards, maybe a couple of books on the name of recreational facilities. Never in my career has any owner provided the crew with DVDs, sports equipment or table games. In most cases, the crew themselves buy some recreational games like a chess or carrom board. With the advent of smartphones, the most common recreation for seafarers is listening to music on their smart phones, or by planning ahead, bringing a hard disk full of movies before joining the vessel.

Once again, it’s of utmost importance that flag states, inspection from port states and MLC inspectors to carry out thorough inspections of vessels and make sure those seafarers’ rights are being upheld.

Conclusion
The maritime industry has always been internationally acclaimed, now it’s turned global. Maritime transport has been at the forefront of globalism, with the consequent possibilities and intimidations for both capital and the working-class. The industry is moulded in a way that allows those who opt to play roulette with the seafarers and passengers lives, property and the environment (Adascalitei 2014).
The ILO’s consolidated Maritime Labour Convention (MLC) 2006 is without a shred of doubt the best convention the maritime sector has perceived in the history of shipping for the welfare of seafarers. The MLC is aptly being recognised as the fourth pillar of the shipping industry, after the SOLAS convention, STCW, 1978 as amended and MARPOL 73/78 (short for Marine Pollution) (Graveson 2008). But, it’s also a fact that however good the convention is, if the implementation is not done properly, it won’t take long for the convention’s reputation to go downhill.

As it’s evident from the port state inspections numbers that the implementation of the convention has seen betterment in terms of vessels inspected and deficiencies related to MLC are concerned, but it isn’t enough, given the number of cases of alleged non-compliance from seafarers grievances, the stipulated deficiencies should have spiked more than the results shown. There are numerous reasons for the same, some of them are lack of time for proper inspection at port due to shorter turnaround time of vessels, lack of PSC officers at the port or lack of proper inspection and lack of inspections at smaller ports can be one of the major causes why a lot of non-compliant vessels are still eluding the inspection and are still operational.

It is also evident in my research that many seafarers still feel that there hasn’t been much change in their living and working conditions. Moreover, some believe that the burden has increased due to better logistical and data exchange between the supply chains, the turnaround time at ports and anchorages has significantly reduced, which in turn has affected the leisure and shore leave time available in older days. The induction of better technology has brought with it the reduction of the crew onboard, which also leads to an increased burden on the crew. It has also been uncovered that a lot of MLC requirements are only carried out on paper, as a defence mechanism against the port state inspections. A more detailed inspection must be carried out on the part of port states to find non-compliance with MLC.

To conclude, MLC 2006 is a well-composed convention, covering all the requirements of seafarers, though it has favoured the ratifying countries by not providing stringier guidelines for implementation. It’s been seven years since the adoption of MLC, but it’s disheartening to say that the convention has not done justice to the expectations of the seafarers. Implementation on smaller vessels and smaller ports is a major concern to be tackled as the crew in these vessels are not permanent and complaints only lead to non-renewal of crew’s contracts. The implementation part should be upheld by the member states and not rely on crew complaints of the same.

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The data used are primary data from the author and secondary data from published sources available online.

**Ethics approval**

No ethnic approval is necessary for this study.

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