

**Dr. Alfredo J. Ganapin Advocacy Forum 3
Series 2006**

**National Forum on
The 2006 ILO Maritime Labor Convention:
Implementing the Magna Carta for
Filipino Seafarers**



September 29, 2006
Parklane Hotel, Cebu City

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Series 2006**

**National Forum on
The 2006 ILO Maritime Labor Convention:
Implementing the Magna Carta for
Filipino Seafarers**

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Center for Migrant Advocacy Philippines (CMA)
72-C Matahimik Street, Teachers' Village
Quezon City, Philippines
Website: www.pinoy-abroad.net E-mail: cma@tri-isys.com
Telefax: +632 4330684

**The Center for Migrant Advocacy –
Philippines (CMA-Phils.)**

thanks

Friedrich Ebert-Stiftung (FES)

MISEREOR

CORDAID

Commission on Filipinos Overseas (CFO)

**Filipino Seafarers Family Caregivers
Association, Cebu**

and

**Philippine Seafarers Assistance Program
(PSAP)**

**for their support in making this
conference a success.**

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EXECUTIVE SUMMARY

The Cebu National Forum formally began with CMA-Philippines Executive Director Ellene Sana reading the keynote message sent by Ms. Cleopatra Doumbia-Henry, Director of the Standards Office of the International Labour Office (ILO) in Geneva.

Ms. Doumbia-Henry's message noted the importance of the Forum as an "opportunity to present and promote the Maritime Labour Convention, its coverage and contents, its advantage for seafarers and their families, as well as its implications for the industry, for government agencies, shipping companies, crewing agencies, maritime training and education institutions, international bodies, and non-governmental/civil society organizations."

Ellene next read the solidarity messages sent by Ms. Natalie Wiseman, Secretary of the UK-Based International Shipping Federation (ISF) on behalf of ISF and its sister organization, the International Chamber of Shipping, and by Mr. Bjorn Lodoen, Chairperson, on behalf of the International Committee on Seafarers' Welfare.

The Apostleship of the Sea-Poland also shared Pope Benedict XVI's message addressed to the 'People of the Sea' on the occasion of the Angelus on 24 September 2006.

The Ateneo Human Rights Center, through its Executive Director, Atty. Carlos Medina, Jr., also sent its message of support to the maritime forum.

The morning session, "Challenges and Opportunities Under the ILO Maritime Labour Convention, 2006" began with Dr. Payoyo's powerpoint presentation on "The New ILO Convention: What Does it Mean for Seafarers?" Dr. Payoyo stressed that in order to make it meaningful to seafarers, "the urgent need is to convey this Convention to seafarers

and for their organizations and unions to be able to dialogue with Government and ship owners." Dr. Payoyo added that Government must ratify the Convention sooner "because the global shipping industry demands that urgent attention be given to the dignity and rights of all seafarers" and "there is a need to take a forward-looking stance to the Convention for the Philippines to maintain its lead position in the global maritime labor market".

POEA Administrator Rosalinda Baldoz's message, read by POEA Deputy Administrator Atty. Viveca Catalig, affirmed the POEA's support for the ratification of the ILO Maritime Convention 2006, as well as extended its support to the initiative to discuss the new ILO maritime Convention.

Representative Roseller Barinaga, Chair of the Committee on Labor of the House of Representatives, in his presentation entitled "Legislative Approaches to a National Magna Carta", assured participants that his "enthusiasm and commitment... remains strong as ever and shall not fade for as long you are all with me in this continuing quest to make our seafarers attain the recognition, protection and care that they truly deserve."

An open forum ended the morning session.

The afternoon session, "Towards a Comprehensive Approach to Implementing a National Magna Carta for Seafarers" started with Fr. Savino Bernardi of the Manila-based Apostleship of the Sea sharing the Church-based institutions' "Reflections on the New ILO Convention" calling for the instrument's ratification "as soon as possible by the Philippine Government for the sound and proper regulation in the maritime employment and the satisfactory relationship by all stakeholders."

In her presentation, "Issues and Concerns of Seafarers and Their Families", Ms. Joji Aguilar, President of the Seafarers' Wives for Economic Empowerment and Transformation, offered her group's recommendations: (1) Manning agencies to subsidize training costs; (2) Government to establish independent seafarer grievance agencies to provide speedy and accessible means of resolving seafarers' claims relating to employment; (3) Base continuous employment on mental and physical fitness rather than on age; (4) Link-up with relevant organizations and other government agencies and NGOs that can help seafarers and; (5) Encourage wives of seafarers to join organizations that can help them earn additional income for their families and build wholesome values for themselves.

Dr. Erol Kahveci of the Seafarers' International Research Centre in Cardiff University ended the afternoon presentations with his "Social Dimensions" stressing the importance of consolidating Maritime Convention by the tripartite approach, as well as pointing out that, even as the Convention is an important and great achievement, its impact on seafarers still remains to be seen.

A second open forum also accompanied the afternoon presentations.

Dr. Payoyo did the wrapping-up, drawing attention to the conclusions and the various recommendations.

At the plenary session that followed, more questions were fielded; recommendations from the various organizations and individuals were noted down.

Finally, Mr. Mirko Herberg of FES, in his closing remarks, noted that "we can showcase this Convention as a common quest of employers and employees to respect labor standards, to talk and implement decent work."

Atty. Golda Roma of the Commission on Filipinos Overseas¹ acted as forum moderator-facilitator.

In the meanwhile, the UP Jorge B. Vargas Museum mounted a photo exhibit, "Kuhang Marino: Images of Filipino Seafarers," a photo documentary of Filipino seafarers' two-sided poetry of ship-board lives and work.

PROGRAMME

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|------|---|--|
| I. | Keynote Message | Ms. Cleopatra Doumbia-Henry
Director, Standards Department
International Labour Office Geneva,
Switzerland |
| II. | Reading of Solidarity Messages | Ms. Ellene Sana
Executive Director, CMA-Phils. |
| III. | Forum Background and Objectives | Ms. Ellene Sana |
| IV. | Morning Session | Challenges and Opportunities Under the ILO Maritime Labour Convention 2006 |
| | A. The New ILO Convention:
What Does it Mean for Seafarers? | Dr. Peter Payoyo
Program Manager Philippine Seafarers' Assistance Program (PSAP) |
| | B. Government Views:
The Convention and the Philippines as the Leading Supply Country for Maritime Labor
POEA Statement | Administrator Rosalina Dimapilis-Baldoz Delivered by Atty. Viveca Catalig
POEA Deputy Administrator |

¹ The CFO was the secretariat of the First National Seafarers' Convention held in September 2002.

Legislative Approaches
to a National Magna
Carta for Seafarers

**Congressman Roseller
Barinaga**
Chair, Committee on Labor and
Employment House of
Representatives

C. Open Forum

V. **Afternoon Session**

**Towards a
Comprehensive
Approach to
Implementing a
National Magna Carta
for Seafarers**

Reflections on the new
ILO Convention from
Church-based
Institutions

Fr. Savino Bernardi
Apostleship of the Sea, Manila

A. Issues and concerns of
seafarers and their
families

Ms. Joji Aguilar
President, Seafarers' Wives for
Economic Empowerment and
Transformation

B. Social Dimensions

Dr. Erol Kahveci
Seafarers' International
Research Centre
Cardiff University, UK

C. Open Forum

VI. Conclusions and
Recommendations

Dr. Peter Payoyo

VII. Plenary

VIII. Closing Remarks

Mr. Mirko Herberg
Friedrich Ebert Stiftung
(FES)

Morning Session: Challenges and Opportunities Under the ILO Maritime Labour Convention 2006

**Keynote Message from the International Labor Office
to the Philippine Seafarers Assistance Programme for
their National Forum**

The 2006 ILO Consolidated Labour Convention: Implementing the Magna Carta for Filipino Seafarers

Cleopatra Doumbia-Henry
Director, Standards Department
International Labour Office
(read by Ms. Ellene Sana)

Dear Participants,

On the behalf of the Director General of the ILO, Mr. Juan Somavia, I would like to congratulate the Philippine Seafarers Assistance Programme for the very important initiative they have taken today, regarding the promotion of the ILO Maritime Labour Convention, 2006.

This Convention sets out minimum requirements designed to enable seafarers to benefit from decent work provisions on conditions of employment, recruitment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

The Convention contains a number of innovative features, embodying both legally binding standards, as well as guidelines. Its amendment procedures will enable it to follow the rapid evolution of the shipping industry. It also

sets out a system for the certification of seafarers' labour conditions.

The Convention is conceived to become the "fourth pillar" of the international maritime regulatory regime, together with three IMO Conventions: the International Convention for the Safety of Life at Sea (SOLAS), the Standards of Training, Certification and Watchkeeping Convention (STCW) and the International Convention for the Prevention of Pollution from Ships (MARPOL).

I am sure that the Philippines, being the country supplying the largest number of international seafarers, does not underestimate the importance of the new ILO Convention. This is why this Cebu Forum constitutes such an important opportunity to present and promote the Maritime Labour Convention, its coverage and contents, its advantage for seafarers and their families, as well as its implications for the industry, for government agencies, shipping companies, crewing agencies, maritime training and education institutions, international bodies and non-governmental/civil society organizations, such as the PSAP.

I wish you a fruitful and constructive debate.

Forum Background and Objectives²

Ms. Ellene Sana, CMA Executive Director



"The Cebu Forum will be the very first opportunity... to publicly deliberate on the Maritime Labour Convention: its coverage and contents, its implications, and its consequences to a full range of national stakeholders – seafarers and their families, government agencies, the private sector (principally shipping companies and crewing agencies), maritime training and education institutions, international bodies, and non-governmental/civil society organizations."

In a historic move to regulate labour and industrial relations in the maritime sector, the International Labour Conference adopted the Maritime Labour Convention on 23 February 2006, otherwise known as the "Magna Carta for Seafarers". This is the very first international agreement of

² See annex 2a

its kind, not only consolidating and updating all relevant ILO Conventions and Recommendations, but also addressing the challenges and predicaments brought about by the globalization of the shipping industry.

It is a precedent-setting instrument because, according to ILO Director General Juan Somavia, the Convention marks "a new departure in the pursuit of a fair globalization by making the rules of the game fair for everybody. At the same time, the market should have the necessary space to perform its key functions for the economy and for society. In the search for solutions, it has become more and more evident that there can be no lasting success with purely national solutions to global problems."

The Convention sets out minimum requirements and a wide range of rights to decent work for seafarers and contains provisions on conditions of employment, recruitment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

Among the novel features of the Convention are its form and structure, embodying both legally binding standards, as well as directives given as guidelines. Its amendment procedures are rapid and, most importantly, set out a system for the certification of seafarers' labour conditions.

The Convention is conceived to become the "fourth pillar" of the international maritime regulatory regime, together with the three key IMO Conventions: the International Convention for the Safety of Life at Sea (SOLAS), the Standards of Training, Certification and Watchkeeping Convention (STCW) and the International Convention for the Prevention of Pollution from Ships (MARPOL).

The Philippines, as the country supplying the biggest number of international seafarers, will be heavily affected by the new ILO Convention in terms of policies and priorities impacting on sea-based OFWs. More importantly, Filipino seafarers, which make up the biggest nationality group in the global maritime workforce, hold tremendous stakes in the meaningful realization and implementation of the Convention.

This Cebu Forum will be the very first opportunity in the Philippines (and thus far, in the whole world) to publicly deliberate on the Maritime Labour Convention: its coverage and contents, its implications, and its consequences on a full range of national stakeholders – seafarers and their families, Government agencies, the private sector (principally shipping companies and crewing agencies), maritime training and education institutions, international bodies and non-governmental/civil society organizations.

Thus, the Forum will give attention to the responsibilities of, and challenges to, the Philippine Government. As well, it will bring into focus the Government's basic policy on the ratification and early implementation of this novel international agreement.

Under the Convention, primordial expectations are given to a "labour supply State", a new actor in international maritime law.

A high-profile public consideration of the 2006 Maritime Labour Convention should serve the following immediate objectives:

1. Celebrate, on a national basis, the Convention as a real achievement of the international community in its efforts to address the complex problem involving globalization and migrant workers.

2. Raise participants' awareness of the 2006 Maritime Labour Convention as an emerging "Magna Carta for Filipino Seafarers", such awareness consisting of:
 - a. informing decision-makers and maritime sector stakeholders of the normative and enforcement regimes underlying the new ILO Convention;
 - b. informing the general public of the powers and responsibilities of "labour supply States" (the Philippines being the most prominent globally) under the Convention and how these new powers and responsibilities will be exercised to promote decent work for, and the basic rights of, seafarers;
 - c. elaborating the role and expectations of the private sector in the implementation of the Convention;
 - d. highlighting the provisions in the Magna Carta concerning the fulfillment of seafarers' welfare needs, and;
 - e. examining the relevance and significance of the Magna Carta for Filipino seafarers in the context of State responsibilities to, and the individual rights of, international migrant workers, in general.
3. Review the current state of affairs with respect to the most pressing issues and concerns faced by seafarers (and their families) that may, or may not be, related to the implementation of the Convention.

The longer-term objectives of this Forum are to:

1. Sustain the celebratory spirit behind the adoption of the new ILO Convention by inviting continuing attention to its agenda of promoting and defending the primacy of the "human element" in maritime commerce;
2. Provoke a more systematic review of Philippine national labour standards applicable to seafarers and sea-based overseas Filipino workers, which could come in the form of a follow-up to the 2002 National Seafarers Convention, a multi-sectoral process that sought to establish a national Magna Carta for seafarers;
3. Establish a mechanism to continually inform Filipino seafarers and their families of developments related to the Magna Carta, and;
4. Strengthen stakeholder networks involved in the empowerment agenda for seafarers and their families based on the provisions of the Convention.

Forum organizers:

- Philippine Seafarers' Assistance Programme (PSAP)
- Center for Migrant Advocacy (CMA-Phil)
- Friedrich Ebert Stiftung (FES)

With support from:

- Cordaid • Misereor • Seafarers Family Caregiver Organization Inc.

The New ILO Convention: What Does it Mean for Seafarers?³

Dr. Peter Payoyo, Program Manager
Philippine Seafarers' Assistance Program (PSAP)



"... in order to make it meaningful to seafarers, the urgent need is to convey this convention to seafarers and their organizations and unions to be able to dialogue with government and shipowners..."

I flew in with around 65 Filipino OFWs from Libya who hadn't eaten for three days. Their principal put them on the cheapest return flight and didn't give them money because of 100% compulsory remittance to families; so, they slept hungry at the airports. Wives sent them allowances.

This will not happen to the maritime sector because of the new international Convention, the bill of rights, an instrument from the international community to seafarers,

³ See Annex 2b

especially to Filipino seafarers who are sent to the whole world.

We want a Convention that can be understood by seafarers themselves. What came out on February 23 is relatively successful in form and introduces a revolution in commercial global relations. While it is not so technical, it is still 100 pages long. It includes repatriation of seafarers, with ship owners being obliged to assist them until they reach home. There are mechanisms to enforce these rights – that we should demand, without fear of reprisal from those who should respect these rights.

The underlying purposes of the Convention are downloadable from the internet.

It is a unique document because negotiators wanted firm rights, without compromises, but governments wanted flexibility.

What's remarkable was that ship owners themselves recognize that the Convention and respect for the seafarers' rights are good for business as well, despite the sharp and harsh competition and greed in the maritime business. They say it's not good for business to exploit seafarers because, if some ship owners ensure their welfare while others don't, but earn more money, pollute oceans, then there is no level playing field. Unions and governments are happy to agree.

Regulatory rules – safety, SOLAS Convention; anti-pollution, MARPOL; ICSW, the human element – need to attend to seafarers, not only to the ships and machines.

This would be the fourth pillar with the ILO Convention on human rights of seafarer – bill of rights of seafarers – a Human Rights instrument that asserts power, built on principles on which advocacy can be based.

This Convention brings the international system of protection closer to seafarers.

When it came out in February 23, 2006, there was political turmoil in the Philippines, so, it did not make it to the news. I thought perhaps the Government would announce the good news at a better time. But up to now, it has not taken pride in this accomplishment that has been hailed by the international community as its gift to seafarers.

What the Convention is not

It does not benefit the fisher folk and we hope there will be a similar Convention. It does not pertain to any identity document. What is most important is that it still has to be given life as law at the national level and it has to be ratified.

How is the Convention to be realized as bill of rights for seafarers?

Governance: Government, ship owners and unions

The challenge is for Congress to develop implementing rules and regulations, while agencies have to change or evolve their respective regulations.

How to make the Convention meaningful to seafarers

The Convention gives seafarers opportunities to participate in the realization of their rights, to demand these rights. The urgent need is to convey this Convention to seafarers and for their organizations and unions to be able to dialogue with Government and the ship owners. In fact, there should be continuing or sustained tripartite dialogue.

The structure of Convention includes mandatory

articles and regulations: Code A is mandatory; Code B is non-mandatory.

Seafarer's rights under the ILO Magna Carta include five fundamental rights; the seafarers' employment and social rights are specific requirements or normative expectations derived under the five Titles of the Convention.

Part V pertains to compliance and enforcement whereby seafarers can see how to enforce their rights, e.g., use of port state controls. Port state enforcement will sustain compliance culture. Seafarers can file a complaint, be assured of confidentiality and non-victimization for such, i.e., blacklisting. They have the right to report violations. Work and living conditions will be inspected by port state control officers.

What are seafarers' rights under the ILO Magna Carta?

What has to be dealt with is the variance between the existing POEA contract and its other rules and regulations, on one hand, and the requirements of the new ILO Convention, on the other; e.g., requirements on compensation and benefits. For example, according to the POEA contract, if a seafarer is injured and gets medical financial assistance, he is no longer entitled to pursue claims. But the Convention says it should not prejudice his claims for injury sustained while doing hazardous work. The POEA says not to pursue claims; the Convention says to get the money and sue the ship owners.

With regard to occupational diseases, for the POEA, the burden lies on the seafarer to prove he was not negligent. But the Convention says that, since it is occupational, therefore it has to distinguish between willful, intentional and negligent.

With regard to termination due to shipwreck, POEA provides for only one month, while the Convention provides for two months.

A delicate issue is allotment where, for POEA, remittance should be mandatory, while for the Convention, it should be optional.

Regarding overtime, the POEA standard contract is 48 hrs/wk, but somehow two hours is added, so, it requires 208 hours, instead of the 204 hours in the Convention.

Regarding recruitment and placement, manning agencies should have verifiable practices, but this is not provided for in either the POEA's standard contract, or in its rules and regulations.

The Convention also says that Government should punish blacklisting practices.

If a seafarer lodges a complaint, there is a possibility that he would be disciplined or dismissed under the POEA contract. But the Convention says that if there's a complaint, this should be respected and there are mechanisms for this.

POEA says that if the seafarer does anything that will implicate the vessel, he can be dismissed or suspended. But the Convention specifically states that he should not be dismissed or suspended. On the other hand, his complaint can detain the ship, a consequence which ship owners fear most.

The POEA standard contract should be reviewed or examined in light of the new context and conditions. We can start the dialogue with the review of this standard contract in relation to the new Convention.

Governance issues are addressed to policy makers. Ratification is not only a legislative matter. It requires preparations, study and setting up the infrastructure to support implementation. The challenge for the Government is to lay down the prerequisites and infrastructure. The objective is to assure decent work for seafarers by ratifying the Convention. The issue is: Would the Government compromise the market?

Government challenges

The perspective of the Government should be not only administrative. We should force it to take the perspective/point of view of the seafarers, which is the reason why the Convention starts with seafarers' rights and needs.

Another challenge is applying the Convention to local or domestic seafarers.

The Convention is addressed to governments, not to seafarers. So, the Government should take steps to realize it. Unfortunately, it excludes certain seafarers/ships.

The framework of state responsibilities to implement the ILO Convention are classified according to governments that are flag states, those that are port states or that welcome seafarers and those that send seafarers. Each has different responsibilities. There is a matrix of different responsibilities as flag state, port state and sending country. Each country should have the capacity to realize its responsibilities.

In the existing national framework, where do we find the rights of seafarers? Structurally? Jurisdictionally? In which law can we find these rights? If there's none, we need to make a law. If there is, we need to systematize or adjust from CBAs to the Constitution.

State responsibilities, system of control

Can the Philippines afford the luxury of not ratifying and be left behind by the world? No, because governments receiving our ships and seafarers will pursue ratification; this will affect the country directly.

Measures should be drawn up to ensure ongoing compliance between inspections to promote a culture of compliance, i.e., compliance-consciousness, not only safety consciousness.

In regard to governance and social dialogue, there are instances when the national tripartite approach is required to implement the Convention. Government has no option but to consult with seafarers.

Some questions for the Philippines as supplier

Is there a tripartite/social dialogue in the maritime sector?

Is this dialogue engaged/involved in decent work imperatives of the Convention?

Is this dialogue adequately transparent and sufficiently inclusive to move the ratification process forward?

Why should the Philippine government ratify the Convention sooner than later?

Ship owners don't like to expedite ratification, but why should Government ratify sooner? Because the global shipping industry demands that urgent attention be given to the dignity and rights of all seafarers. There is a need to take a forward looking stance to the Convention for the Philippines to maintain its lead position in the global maritime labor market.

Government Views:

The Convention and the Philippines as the Leading Supply Country for Maritime Labor

Statement of Administrator Rosalina Dimapilis-Baldoz

(Delivered by Atty. Viveca Catalig, POEA Deputy Administrator)



"... we affirm POEA's support for the ratification of the ILO Maritime Convention 2006 and to the initiative to discuss the new ILO Maritime Convention..."

Greetings.....

Thank you for this opportunity to express my support to the ILO Maritime Convention 2006 and to the organizers of this forum for arranging this timely and important event.

I am happy to note the objectives of this forum to raise awareness on this landmark ILO convention and pursue initiatives towards its ratification.

This ILO Maritime Convention integrates in a single instrument all the relevant ILO standards relating to maritime labour. The consolidated convention seeks to bring the system of protection provided in existing ILO standards closer to the workers, as well as improve the applicability of the system to enable ship owners and governments interested in providing decent conditions of work to bear equal burden in ensuring the protection of seafarers. The convention sets minimum requirements for seafarers to work on a ship and contains provisions on conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security provisions.

The Philippine government fully supports this recently adopted ILO Maritime Convention. As early as 2004, the POEA, in close coordination with ILO, arranged a series of tripartite consultation meetings and subjected the draft of the Convention, which was then only a proposal, to critical reviews and comments. Representatives from concerned agencies and other stakeholders convened on 7 to 9 September 2004 to discuss the draft, particularly the provisions that would have strong repercussions on the Philippine Maritime Industry.

Last February 2006, I was part of the Philippine Delegation to the 94th International Maritime Labour conference in Geneva, which voted for the adoption of the Convention. During the convention we expressed the hope that with the support of social partners and the ILO, any obstacles to its ratification can be successfully overcome, particularly the legal issue on the inclusion of domestic shipping in the scope of the convention.

Essentially, many of the provisions of the Convention are already contained in the POEA standard terms and conditions of employment of Filipino seafarers on board ocean-going vessels or the seafarers' standard contract of employment. It will not, therefore, be difficult to implement the convention.

We are, however, set to review the existing standard employment contract to update it to the new standards and incorporate those that are to be added based on the new ILO Convention. Under the auspices of the Tripartite Industrial Peace Council (TIPC) of the Department of Labor and the technical assistance of the ILO, we are also set to comply with the requirements for tripartite consultations on the ILO ratification purposes.

The deployment of Filipino seafarers has shown a remarkable increase this year. Since January 2006 up to this month, we have already registered an 11% increase in the deployment of seafarers compared to the figures in the same period last year.

We, at the POEA, are positive that this trend will continue and that the seafaring industry will continue to grow and develop. We are therefore compelled and have the greatest stake and responsibility to pave the way for the early ratification of this Convention.

Once again I wish to confirm the POEA's support to the ratification of the ILO Maritime Convention 2006. We support your initiative to discuss the new ILO Maritime Convention in this venue and we look forward to your participation in the consultations we are arranging. We know we can work together and our concerned efforts will help us achieve our common goal to provide the most beneficial employment conditions for our workers. I assure you that promoting the ratification and, more importantly, the implementation of the ILO Maritime Convention 2006 is a commitment and priority of the POEA.

Thank you and I wish you a most productive and rewarding forum.

Legislative Approaches to a National Magna Carta for Seafarers Congressman Roseller Barinaga

Chairperson Committee on Labor and Employment,
House of Representatives



"... my enthusiasm and commitment... remains strong as ever and shall not fade for as long you are all with me in this continuing quest to make our seafarers attain the recognition, protection and care that they truly deserve."

Views and Reactions: ILO Maritime Labor Convention Of 2006

1. Before anything else, let me congratulate the Philippine Seafarers Assistance Program based in Rotterdam and the Center for Migrant Advocacy – Philippines who, with their concern with the Seafarers, in general, and the Filipinos, in particular, organized this very important event we are having today, with the support of the Seafarers International Research Center and the Friedrich Ebert Stiftung.

2. Today, indeed, is a momentous day as we get together in celebrating the passage of a watershed Convention by the ILO affecting and benefiting the 1.2 million seafarers around the world where our very own maritime workers consists one fourth (20%) of it.
3. With the country considered as one, if not the biggest, supplier of maritime manpower in the world, we will indeed be the one singular beneficiary of the newest ILO Convention. This we recognize in the House of Representatives.
4. There are a lot of news in the country's maritime industry, there are good and bad news. The good news is that we are able to sustain the increase in the number of maritime placements in the past years. The bad news, however, is more and more Filipinos are subjected to poor working conditions and wages in many ships around the world. It is for this season that, as early as 2004, two years before the passage of the new ILO Convention on Seafarers I re-filed in the 13th Congress House Bill 1358 on July 13, 2004, providing, among others, the reforms and enhancement of the maritime Workers' welfare and protection.
5. The concern of the Lawmakers is shown by the fact that more than 20 Bills concerning the Filipino seamen has been filed in the previous Congress. There are, at present, at least five (5) pending Bills in the Lower House under the 13th Congress.

These Bills range from the establishment of the National Seafarers' Administration by Rep. Roilo Golez to provision of more protection to seafarers by Reps. Marcos, Barbers and Domogan.

6. My Bill entitled "Magna Carta for Filipino Seafarers" or HB 1358 is now being deliberated by the House Committee on Overseas Workers. I hope to bring it to the Plenary as soon as possible. The adoption of the new ILO Convention has indeed brought to the fore the urgency of the reforms in the maritime industry.
7. With the adoption by ILO of the 2006 Seafarers Convention, I would be asking the groups and individuals present here today to see to it that pertinent provisions that are needed to be incorporated into my Bill and the other Bills should be articulated during the committee hearings up to the plenary deliberations. Through this we will ensure the improvement and harmony of my colleagues' legislative proposal with the new Convention.
8. As regards the ratification of the Convention, let me assure you that your Chairman of the Labor and Employment Committee of the House will exert all efforts to advocate the Convention's importance and urgency among his fellow lawmakers.
9. To expedite the passage of my proposal (HB 1358) as well as with the other Bills, I would like to request the groups that are here today, together with the families and seafarers present here, to call or write their respective Congressmen to support our legislative proposals. Your actions would surely make things move faster in the Committee as well as in the Plenary later on.
10. Before I end my reactions, let me reiterate my sincere thanks to the organizers and supporters who made this meeting a reality. May you continue to champion the cause of our great seamen and, with your help during the Committee meetings and

deliberations of my bill, as well as of the others', in the House of Representatives, we shall finally pass H.B. 1358 in consolidation with the other seafarers bills.

11. Let me assure you that my enthusiasm and commitment, as you have seen in 2002, remains strong as ever and shall not fade for as long you are all with me in this continuing quest to make our seafarers attain the recognition, protection and care that they truly deserve.
12. It's a sad observation that Government seems to lack appreciation of the passing of the maritime labour convention, as stated by Dr. Peter Payoyo. I'll try to do my part and deliver to the whole world a privilege speech in announcing this good news. Thank you, Peter, for that reminder.
13. Likewise, we will take note of the differences in the contract provisions of the POEA and that of the ILO Convention, especially so while we are deliberating on the proposed labor code, as well as the bills relating to seafarers.
14. We in Congress will appreciate very much if you will call our attention or write us of what you want us to do; that's our jobs.
15. I would like to know more of the Filipino Seafarers' Family Caregivers Association, Inc, probably during the Seafarers' gathering in our province in Zamboanga Norte.

Thank you, good day and may God bless us all!

OPEN FORUM



Nonoy Amante (UP) -- This being the first public forum since the February 2006 convention was adopted, I greet CMA, PSAP, Rep. Barinaga and POEA for their expression of support for its ratification. Former Labor Sec. Sto. Tomas said we will ratify, as reflected in Administrator Baldoz' statement. Capt. Oca of AMOSUP also said the Government will ratify. Salinas said the same, but to exclude domestic shipping.

We should ask the shipowners. Hopefully, the Senate will also move for ratification. The Chair of the Committee on Foreign Relations, Sen. Miriam Santiago hopefully will join us. We need PGMA to endorse. So first, Sec. Brion should endorse to PGMA, but I doubt it, unless POEA, shipowners and AMOSUP will endorse it. Sec. Brion and the POEA can endorse

only if the tripartite agrees, but the problem is shipowners do not agree because their domestic shipping may not be ready to comply with the Convention. We need to address this fast because it is in our interest.

Roger Cordero (MARINO) -- Regarding benefits and compensation for work related illnesses, we filed a TRO with the Supreme Court. But I no longer believe in the justice system. In case of work-related death during the term of contract, employers should pay beneficiaries P50,000 plus to the child. But in the previous memo in case of death of a seafarer, the tripartite group inserted work-related. So, even if the seafarer is on board but not on duty, the manning agency or principal or insurance will not pay the seafarer a single centavo.



Roger Cordero, MARINO

Dr. Payoyo (PSAP) -- This is a historical controversy in the development of the POEA contract, that is, what is "work related"? Is there a possibility that, in the new Convention, this will change? The convention doesn't say "work related"; it uses a more liberal phraseology than does the POEA standard contract and allows exemption in certain circumstances.

The real test is when Government interprets this in a new contract. So far, the convention would still be abstract until it is translated into a new POEA contract. POEA is now in a position to review it; the existing standard contract is oppressive. It may be the result of social dialogue, but we don't agree with it.

Perhaps the forthcoming review can include other social partners because existing partners have become very comfortable with each other. There is a need to look at provisions in a more critical way. The standard contract is not favorable to seafarers perhaps because it is a compromise, an attempt at striking a balance through the said dialogue. If you have lost confidence in the system, perhaps we can more effectively advocate.

Rep. Barinaga -- If we want to change the law to favor the interests of seafarers, we can do so, if Congress will pass the law. If the Supreme Court interprets this way and if we believe we can better its decision, we can pursue that, as legislators.

Atty. Catalig (POEA) -- Under an existing standard contract, it is clear that if not work related, the seafarer is not entitled to benefits provided therein. But with the Convention, this is an opportunity to study the gaps and maybe update some provisions because all are working towards one direction - better protection for seafarers.



Prof. Maragtas Amante, UP SOLAIR

Atty. Golda Roma (CFO) -- We should lobby to bring the ratification of the convention to the attention of the Senate.

Atty. Loreen Cabaliw (office of Sen. Angara) -- Sen. Angara is the principal author of the Senate counterpart bill. He sends his congratulations to the organizers of this forum. He could not come because he is now guest of honor at the Philippine Seafarers Forum at the Philippine Trade Center in Manila. He will do his share in passing the ratification of the ILO maritime convention.

Ruth Mercado (columnist, The Freeman Transport) -- About these variances in the POEA standard contract and the Convention, how do you intend to reconcile these? Does convention prevail?

Dr. Payoyo -- The standard contract still prevails. The Convention is not self executing. It will take effect in the Philippines or will be binding only when it is ratified. But that does not prevent us from already reviewing the contract. Atty. Catalig said the review must begin in earnest. Our concern is how to make the review process more inclusive and meaningful.

We need to put a more substantive position forward and defend it, or else, we will be swallowed by other forces. Nothing in the Convention requires us to change the provisions of the standard contract. The Government can always say this is to our discretion and it will be right, from a technical point of view. Our position is to improve the contract from the point of view of seafarers.

Ruth Mercado – Would an enabling law eventually fuse together the Magna Carta in terms of application to both overseas and domestic seafarers?

Dr. Payoyo -- The Convention is a very practical instrument because certain governments, including our country, can easily adapt it, but other countries will take years. The convention provides that if a country can't adopt the Magna Carta, it can still comply by adopting equivalent legislation.

We are actually compliant with the Convention in many ways, e.g., minimum age, monthly payment of wages. But will we have only one Magna Carta or address it piece by piece, then submit to ILO. There are various approaches and these should be part of the strategy of Rep. Barinaga and Sen. Angara to make it more effective, e.g., in the area of domestic shipping. If it turns out controversial, perhaps we can push it later, e.g., POEA regulation that the Convention will apply when certain conditions apply



Ruth Mercado, Columnist

Rep. Barinaga -- Regarding the differences between the standard contract and the Convention, we take what takes the better interest of seafarers. But the process of moving the law includes that the interests of those who will be affected will also have their own lobby. But we will try our best. If we will not ratify the Convention yet, those doables and in the seafarers' interest can be done piece-meal, or we can amend the Migrants Act or, otherwise, incorporate it in the proposed bill.

Atty. Golda Roma -- This is a reminder to submit proposals to the office of Rep. Barinaga. The conference kit includes a comparative matrix of the bills of Rep. Barinaga and the Senate bill. To enable us to check their contents, the exact provisions can be downloaded from the websites of the House of Representatives and the Senate.

Eduardo Perez (Ext. Vice President, Filipino International Seafarers Solidarity Organization) -- We are in favor of ratification, but we are sorry that, for domestic shipping, it has to wait for next or later years. Pareho po ang lasa ng dagat, so dapat pareho, sabay.. Di pwede chop-chop⁴. Regarding POEA's increase in seafarer deployment, napakahirap sumakay sa international ships. If you pass by Kalaw, madaming nakatambay⁵.

Dati after three months sign off, sakay na. Now, more than a year na, hirap pa sumakay sa barko⁶. Instead of staying with his family, the seafarer stays in Manila to look for his next employment. How does government address this? Graduates number more than 25,000 every year, but only a few are able to board vessels.

Also, how is it that those agencies are hiring seafarers as utilities without salaries, allowances, and food? This is against the Labor Law and agencies should address this.

Atty. Catalig -- If you look at POEA records, there are a lot of orders. The problem is the orders are more for officers where we have a shortage. What is in demand is what we lack, while there are more ratings than are in demand. Seafarers have to comply with certain trainings and qualifications.

⁴ Sea water tastes the same, wherever; similarly, things should be treated equally, done simultaneously. Doing things piece-meal would be unacceptable.

⁵ ...getting to work on board international ships is extremely difficult. If you happen by Kalaw Street (where big manning agencies hold office), you'd find a lot of seamen on standby status.

⁶ It used to be that, three months after sign-off, one would already get to board. Nowadays, one would be lucky to board a year hence.

Thus, the Government and the private sector are encouraging more trainings and education for graduates. We have coordinated with CHED so that those who graduate as Mechanical and Electrical Engineers will only take a bridge course to qualify as Marine Engineers.

Eduardo Perez – There are 8,000 seafarers in Pagoda, of whom many are officers, but they are also not able to board international ships.

Atty. Catalig – Consider also that the final decision rests on the employer. The manning agency or foreign employer may require other qualifications. This is the reality.

Ms. Carolina De Leon (POEA) – Some manning agencies do give allowances to utilities, e.g., Pacific, Orient Hope. Serving as utilities also serves as training for seafarers.



Buboy Belarmino, PIACO, Inc.

Rep. Barinaga -- With regards to applicants who *tambay*⁷ for long, is it possible that we prohibit manning agencies without internet presence so that applicants can file through the internet that is well monitored. This is done in the US embassy. It is pitiful to see *tambays*. We should address family separation, e.g., sleeping at the Rizal Park. Passing a law should have feeling, should look at the point of view of seafarers. Perhaps PESO can help in maximizing the internet. All agencies should have internet presence and POEA should be strict.

Eduardo Perez -- That is a good suggestion from Congressman Barinaga. Only few seafarers use the internet. We have 20 computers to train them. We need to educate them on how to use the internet. We should require this of manning agencies so seafarers do not need to go to Manila and be far from their families. It is also very expensive for them.

Many utilities become drivers, private drivers, workers in piggery farms, etc. We should dig deeper into this utility issue. We wanted to make a documentary but, were advised we would be risking our lives.

Atty. Catalig -- We will look deeper into utilities because this is not allowed in our laws. Most agencies have websites so seafarers can apply there. Those in Visayas and Mindanao can inquire for openings from POEA, so there's no need to go to Manila. Some agencies also have branch offices in the Visayas and Mindanao. PESO may also be able to provide information. POEA also has hotlines. DOLE has philjobnet.

⁷ Stand by

Atty. Golda Roma -- Online application is a good suggestion because that would not only mean easier application, but also that would make seafarers computer savvy so that, on board, they can communicate with their families through the internet.

Roger Cordero -- There are 980,000 duly registered Filipino seafarers who can go on board. For one year, 220,000. There are an additional 28,000 graduates per year, but only 600, or 3%, can go on board. Comparatively, in America, there are only 5 maritime schools and 15 training schools while in the Philippines, there are 215 maritime institutes and training centers. There are also more than 270 manning agencies.

*Bakit maraming istambay sa Luneta*⁸? POEA said because we lack officers. Rather, it is because of discrimination based on age. When a master reaches 40 years old, he can no longer be hired. If he is 30, he can no longer be hired if he transfers to another manning agency. Regarding utilities, there are seafarers making *tablea*⁹ in Batangas.

Regarding blacklisting, I was blacklisted by a manning agency. When I went to POEA, they asked me if I reported. Will I swim from Australia to the Philippines?

Atty. Golda Roma -- Unfortunately, there is no CHED representative, CHED being the one that licenses maritime schools. Legislation can address increase in graduates who cannot be hired.

⁸ Why are there so many on stand-by at the Luneta Park?

⁹ Native chocolate

Atty. Catalig -- Employers have the final say in hiring, e.g., age. They want to be sure that operations of ship by an older seafarer may not be as efficient as by somebody younger. The bottom line is that they have certain requirements that have to be complied with by the applicant.

Regarding blacklisting, while we have heard of these lists, we have not really received substantiated cases to be able to initiate any investigation. Under the rules, such blacklisting is not allowed. There is a particular provision on preventing hiring of seafarers.

Atty. Golda Roma – Have there been sanctions on agencies that did blacklisting?

Atty. Catalig -- If there is a substantiated case. As far as I recall, no case with supporting documents has been formally filed with POEA with supporting documents. *Marami daw*¹⁰, but no one has filed a formal complaint.

Buboy Belarmino (Public Interest Advocacy and Litigation Office) -- Does the bill filed have penal provisions or penalty clause and how much are these? In our office, we have several cases. We have a case involving a captain terminated by an agency two years ago. We moved for back wages of two million pesos. But it is very hard to implement this said execution because of so many delaying tactics of lawyers. So I support the participant who has lost confidence in our justice system.

Rep. Barinaga -- We usually incorporate penal provisions to provide more teeth to the law. In fact, there are many cases, e.g., in NLRC because our lawyers can

¹⁰ Reportedly, there have been a lot [of complaints]

always go to the higher court. We want to shorten the appeal process to speed up execution, but the Constitution provides for such an appeal process. And, sometimes, even if we win the case, the agency is no longer there.

Buboy Belarmino -- I hope that there will be stiff penalties to set an example to agencies because, in cases like these, people lose trust in the government. Every law is a good law, but the problem is its execution and implementation. We will submit a proposal to Rep. Barinaga.

Rudy Tobil (seafarer) -- We lack officers because training is very expensive. Those who want to train and take a licensure examination can't afford the very expensive certificate.

Atty. Golda Roma -- It is burdensome not only to the seafarer but to his entire family, especially because these trainings are required every time one applies to be deployed.

Atty. Catalig – Although this is not POEA's mandate, we can suggest communicating with MTC¹¹ if there are programs or scholarships to undergo these expensive trainings.

Atty. Golda Roma – Are there NGOs offering trainings?

¹¹ Maritime Training Council



Fr. Savino (AOS) -- I agree with the problems raised from the floor. These are the very deep realities in the maritime profession. Perhaps, these are questions of different perceptions. From the top, particularly from POEA and other agencies including CHED, the perception is that we have the laws, rules and regulations.

They are good although not perfect. At that level, things seem to be fine. Unfortunately, the reality below is totally different, e.g., utility boys in Kalaw. Ask what number they are. If you are no. 90, there are 89 people ahead. Meanwhile, they do cooking and other house chores for the manning agent's family – no training, no food, no allowances.

Some give allowances, but the majority doesn't. The law is also good, e.g., punishing blacklisting if they complain. The Convention intends to protect seafarers by giving them not only the right to complain and protection if they complain. But in the seafarer community, if they complain, they are no longer hired.

Many colleges produce many graduates; actually, these "graduates" only reached 3rd year. Thus, they are not ready to be deployed because of their age. Laws and rules and regulations are supposed to provide protection, but only few complain because they lose the job. Can we find a mechanism to solve the impasse between seafarer and institutions?

For years, we have been offering suggestions to POEA in different meetings, including NGO consultative meetings. We should allow people to write complaints to POEA even anonymously, e.g., through a complaint box, e-mail, etc. This should be treated confidentially. We should protect the seafarers because they know very well that, if they complain, their job is at risk.

Atty. Golda Roma – The complaint mechanism should not lead to blacklisting.

Atty. Catalig -- If somebody writes us without signing his/her name, we usually look into it. But the fact remains that, unless we have complainant/interested party to testify to such allegations, we'll have difficulty, considering our rules and regulations.

We would also be opening ourselves to possible complaints by manning agencies filed with the Ombudsman that we are violating due process, specifically in respect of the rights of the right to confront those complaining. However, we can take note of this suggestion and how we can address the environment where filing of complaint can make it easier for the aggrieved seafarer to air his grievances and get justice and not be afraid of dismissal and of other actions by the employer or agency.

Atty. Golda Roma – Perhaps there is a need to include this in the proposed bill.

Dr. Erol Kahveci - I studied POEA rules and regulations issued in 2003 governing recruitment and employment of seafarers. In case of certain agencies, rules and regulations do not mention blacklisting and punishable acts. But this does not mean seafarer on watchlist will never be allowed on ship once they are cleared.

Atty. Catalig -- The watchlist POEA maintains against the blacklist of manning agencies, as per our rules, provides that, even if there is a complaint filed against a seafarer, we allow temporary clearance to the seafarer if he is set to board a ship, but the seafarer has to file his answer to this complaint.

Dr. Erol Kahveci – Is there a crewing watchlist?

Atty. Catalig – It is not in the website, but it is accessible. We have a watchlist for both seafarers, manning agencies and employers/principals.

Arthur Ceniza (FSFCOI) – How do you differentiate watchlist from blacklist?

Atty. Catalig -- We have a watchlist under our rules, although there are already some amendments. If a case is filed but is pending investigation, it can be dismissed, or it can blacklist/disqualify the seafarer or agency. We say “suspension/disqualification” of either worker or principal. If it’s a manning agency, we suspend or cancel the license.

Roger Cordero – Why does the law say a man is guilty unless proven by the court?

Atty. Catalig -- From our point of view, the seafarer is also an ambassador of good will, so we try to make sure those who go abroad deserve to work abroad. But there are amendments to the rules. If a complaint is filed, we don't immediately watchlist, but give the seafarer and employer time to respond to the complaint.

Dr. Payoyo -- Why should you suspend a seaman if a complaint was filed? That can be changed; it is not sacrosanct. This is absurd. Under the rules, the seaman is automatically suspended and has to respond to the complaint. But we should let him prove his innocence and, until then, he is innocent. But how come, by administrative magic, the agency presumes the seafarer guilty? He is not excused, if this is the rule.

Sometimes it is flexible. What is in the law is, if there is a complaint, he is suspended. The government shows it is paternalistic, calling them ambassadors. They are working, supporting their families. There is no need to add any further description to them. Perceptions are different. There may be bad eggs, but if we assume that a case is a general situation, that is a problem of legal assumptions.

Actually, POEA's projection is that it is a lack of the manning agencies, not the seafarers'. This is a perception, too. Whether you like it or not, you defend or not; this is a problem. I'm sure POEA is not lacking talent to support the seafarers. Why is there a block in the defense of seafarers, but strong agencies come in sweet and soft, no evidence, no complaint? I think POEA should build the image that is for the seafarers. You can use the opportunity of the Convention to build on the strategy to be pro

seafarers.

Atty. Catalig -- Yes, it's perception and who has the perception. Manning agencies accuse us as pro-labor, and seafarers accuse us of being pro-manning agencies. We cannot please everyone. The rules have already been amended. We don't just watchlist and this is for both worker and employer. If the worker has available opportunity, we always allow the worker to leave for employment, so the case is temporarily archived because we have the worker's interest at heart. With this Convention, we will review the rules and regulations and the standard contract and try to identify the gaps and provisions to amend.

Afternoon Session: Towards a Comprehensive Approach to Implementing a National Magna Carta for Seafarers

Reflections on the New ILO Convention from Church-based Institutions

Fr. Savino Bernardi, Apostleship of the Sea, Manila



"The Apostleship of the Sea prays that this instrument be ratified as soon as possible by the Philippine Government for the sound and proper regulation in the maritime employment and the satisfactory relationship by all stakeholders."

Distinguished guests, friends of seafarers, ladies and gentlemen, Good Afternoon.

The task given to me is to reflect on the Consolidated Convention from the point of view of the Catholic Church and other Christian Churches' commitment to the spiritual, moral and social welfare of seafarers.

Enough comments were made today on the technical aspects of the Convention and its implications on the human component of the shipping industry.

1) I will focus, therefore, on the importance of the “Collaborative Spirit” implied in the Convention and perceived as the “inspiration” of the Convention aiming at a fair and just relationship of all the stakeholders in the shipping industry.

2) I will elaborate on the importance of securing a level-ground cooperation and respect of all concerned in this industry.

3) Finally, I will point out that the Ratification of the Convention by the Philippine Government is not an option but the only way to put a legislative order and guidance against a proliferation of abuses. At stake is the reputation of the Philippines as a country that is serious about protecting its hundreds of thousands of seafarers and moving forward toward world-respected shipping practices.

The ILO Director General Juan Somavia said “We have made maritime labour history today... providing a comprehensive labour charter for the world’s 1.2 million or more seafarers... Its provisions will help to meet the demand for quality shipping, which is crucial to the global economy”.

The Philippines as the largest supplier country of seafarers in the world must not lose this historical opportunity to keep in step with the world.

On the occasion of the World Maritime Day, yesterday, the Holy Father has sent a message of greetings to the seafarers, to their families and to the maritime industry (read by Ms. Ellene Sana at the beginning of the Forum this morning).

In his message the Holy Father mentioned specifically the Apostleship of the Sea as the Catholic Agency dedicated to spiritual and welfare assistance in this field. The Apostleship of the Sea, however, is not alone in dedicating its services to seafarers, their families and the maritime industry. It works in cooperation with the International Christian Maritime Association (ICMA), composed of 27 different Christian organizations and of which the Apostleship of the Sea is a founding member.

With its 526 seafarers’ centers and 927 chaplains, the 27 ICMA member associations provide most of the shore-side seafarers’ welfare facilities and services in the world.

ICMA has a standing delegation to the ILO and shares with it its long experience and knowledge of seafarers’ issues. Together with member governments, ship owners and trade unions, it contributed largely to the formulation of the consolidated Convention in question throughout the five years of preparation.

ICMA praises the adoption of the Convention. Popularly called “the Seafarers’ Bill of Rights” and the “Seafarers’ Magna Carta”, ICMA believes that the Convention sets international standards on a wide range of seafarers’ rights including medical care, welfare facilities, food, accommodation, safety, minimum age, recruitment, repatriation, hours of work and other crucial seafarers’ concerns.

It is intended to be the fourth regulatory pillar of fundamental maritime standards joining the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL) and the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW).

Overview of the Convention

An overview of the Convention brings to the consciousness of all the fact that the expressed intention of the ILO Delegates is to “protect the rights and dignity of those who work onboard ships”. The “human element” is the benchmark. A cursory view of the Table of Contents brings this out.

Obviously, the inspiration of the Convention is to establish a “collaborative relationship” among all the stakeholders in industry with the underline consideration that the most important components are the people who man the ships. This reality is enlarged when we take into consideration that many and varied are the people directly or indirectly involved in this industry: not only the crew on a ship, but their families, the manning agents, shipowners, port people and government people as well.

Corporate Social Responsibility in Shipping (CSR)

To stress the importance of the “collaborative responsibility”, I wish to make reference to a study made by the DET NORSKE VERITAS as reported in 2004. The study is entitled “Corporate Social Responsibility in Shipping” (CSR). The report points out that to achieve “sustainable profitable operation”, companies must seek to find “the right equilibrium between the need for profitability, environmental protection and social equity. CSR entails:

1. Concern for the natural environment
2. Concern for labour (employees)
3. Concern for human rights
4. Concern for the wider community
5. Stakeholder involvement
6. Business ethics

More in detail, SCR requires focus along three dimensions. For the purpose of this presentation, I wish to highlight the following:

1. Avoid negative impact
 - a. Ensuring international rules and regulations are respected
 - b. Improving environmental performance
 - c. Upholding high ethical business standards
 - d. Supporting (or not opposing) employee initiative to unionize
 - e. Safeguarding crew against abuse onboard
 - f. Safeguarding crew against abuse by others (manning agent specifically mentioned).
2. Have positive impact
 - a. Going beyond international rules and regulations
 - b. Optimizing the welfare of crew and family
 - c. Being proactive in local community involvement.
3. Conduct CSR activities
 - a. CSR action plan for improvement with internal and external stakeholders
 - b. Engagement with stakeholders (trade unions, local community organizations, non-governmental organizations) through dialogue
 - c. Value formation and training

Ratification as a Government urgent undertaking

From the above outline a conclusion appears evident: good business equals good management; good management equals fair and just rapport with all human components in the shipping industry. I believe that this is the spirit and the nature of the consolidated Convention. The Convention, as passed, is the global expression of a concurrent effort by all stakeholders to safeguard and protect the rights and dignity of seafarers and provide them

with safe ships and rewarding employment.

Progress will undoubtedly be made in shipping, as industry and as employment, with the faithful and sincere implementation of the Convention. Moreover, the Philippine Government will obtain greater appreciation, trust, respect and employment opportunity for the many thousands of its seafarers if it will expeditiously pursue the ratification of the Convention.

May our Government and legislators share this urgency and not let the opportunity to stand as a country, which values its seafarers pass by. The Philippines is the prime country in the world for its number of seafarers. Let it offer a leading example to the world by being one of the first to ratify the Convention.

Cooperation means trust toward the Church Ministry for seafarers

As seen above, the Apostleship of the Sea, together with ICMA, has for a long time manifested its concern and dedication to the spiritual, moral, social welfare of seafarers and their families here in the Philippines and throughout the world. For this ministry, the Church has always been much recognized and appreciated. It is a work of service to, and in behalf, of seafarers done with a holistic vision and, therefore, not restricting itself only to the spiritual and religious needs of seafarers.

This ministry is undertaken with the clear knowledge that there are many and varied stakeholders' interests to respect: the seafarers', the families', the manning agencies', the principals', the ship owners', etc.

First, the Church never wishes to compete with unions' work nor to substitute the important role of government, or to stand on the side of employers. Second,

the Church wishes not to be biased for seafarers' right at the cost of unreasonably irritating the employers or criticizing the Government. Its concern, primarily, is harmony in the industry by achieving mutual respect and honest cooperation.

The Church offers the voice of a fair and just dealing between employees and employers in order to achieve the respect of the laws and regulations concerning this specific field of employment. The Consolidated ILO Convention shares this balanced approach and it has been recognized and accepted as the wisest balancing act achieved so far. It manifests a global consciousness of the invaluable participation and contribution of seafarers in the progress of the maritime industry.

Having said this, the ministry of the Church is oftentimes obliged to bring the rightful concerns of seafarers to the doorsteps of their employers (manning agencies, P&O Clubs, ship owners, etc.). This is done with reason and respect.

It is of tantamount importance that the manning agencies, P & O Clubs, ship owners, etc., accept the representation of the Apostleship of the Sea on behalf of complaining seafarers, with reason, respect and trust. A friend for justice is a friend for the respect of the dignity and rights of a stakeholder in the same industry. No one should object to this honest endeavor; it derives from the basis of established and recognized rights.

Experience shows, however, that at times manning agents react negatively to the inquiries and representations brought to their attention by the Apostleship of the Sea on behalf of a seafarer. The AOS voice contains no disrespect, doubt of an improper dealing or accusation of injustice. It simply seeks the honest and fair consideration in a case where, presumably, a complaint of a seafarer has not been

rightfully attended to. Consequently, this is a call to trust, cooperation and mutual concern for a fair deal.

Conclusion

The ILO Consolidated Convention is now the “international law for a comprehensive protection of the rights of seafarers” and a global instrument for a “fair deal” in their employment. The Apostleship of the Sea prays that, as such, this instrument be ratified as soon as possible by the Philippine Government for the sound and proper regulation in the maritime employment and the satisfactory relationship by all stakeholders. We all know that “a happy crew means a safe ship”. Thank you.

Additional notes from Fr. Savino’s paper

The AOS is not alone dedicated to seafarers and their families. It cooperates with IFMA composed of various seafarers’ organizations. Together, we offer 526 seafarer centers and 927 chaplains to assist seafarers throughout the world, particularly when they come ashore for their needs, welfare, relaxation and spirituality. AOS is, therefore, aware of their many issues, concerns and needs. Both the AOS and IFMA's work is for everyone, regardless of religion, culture...

For the new Convention, the human element is the benchmark and it is surprising because it was overwhelmingly approved with only a few abstentions. Corporate social responsibility is a holistic view that sides with our own perspective as church people; it takes into account all people working in the shipping industry: manning agencies, principals, shipowners down to seafarers and their families -- a holistic view that sides with our own perspective as church people.

Everybody is concerned with everybody else. Respect of rights, including those of seafarers, is good for business. Shipping companies should avoid the negative impact of separating or not considering the contribution of all, compartmentalizing them, then on the top and seafarers serve them to get profit – by ensuring internal rules and regulations. This social responsibility has positive impact by going beyond international rules and regulations, beyond the law protecting the rights and welfare of seafarers and their families.

Activities

I wish and we actively work very hard to see that the Church, AOS and IFMA relationship with all stakeholders is based on this principle. Sometimes, we had cases of seafarers complaining about various things and they expect us to call the agency, POEA, take action in their behalf. Sometimes, very surprisingly, it is, “Who are you? Why did he come to you and not to my office? Send them to my office so we can fix it.” Yet after 3-5 months, the problem is not solved, so, in desperation, they come to us again. Manning agents are peeved by the fact that AOS intervenes.

It is our responsibility to maintain a balanced situation because seafarers are not always right, like they push their luck too much in their complaints so we work out a balanced situation. They need to work for their rights as well as their responsibilities.

We also deal with manning agencies because principals are mostly abroad. I see that the spirit of this Convention simmers down to the stakeholders in this profession, particularly employers and manning agents and to that the intervention of the church is out of concern for seafarers, not out of forceful moving by a union, not out of irrational defense of seafarers' rights, but to ensure they are

respected in their dignity and their rights. We don't want to raise suspicion or mistrust on the part of manning agents.

We favor the Convention's ratification as soon as possible. The road ahead is not easy. We sometimes speak a different language: one from reality and another from rules and regulations. Both are fair or objective, so we do not condemn anybody but the two sides must meet, reality and what's in place so that there's deeper collaboration between all people concerned and we can then move forward.

The impression we get sometimes from conventions is that these problems have been there for a long time, tabled so many times, repeated many times. We recognize the 2002 convention of Government and Magna Carta and votation was impressive by DFA Sec. Ople who then said the Filipino Magna Carta, translated into the bill of rights for seafarers, would be the model and the first realization for all the world to see what the Philippines means in assisting seafarers. Yet, four years later, nothing.

I felt that Magna Carta was stillborn; I hope, only a sickly baby and we can bring health into it and move forward. What was suggested in those days is a very healthy perspective and in a way a forerunner of the Consolidated Convention. Therefore, for the concern of seafarers, the shipping industry, all people involved in employment of seafarers in the Philippines, we have to leave our private interests behind and together work in uplifting our relationship with one another.

The life of seafarers is not easy, full of hard work, lonely due to separation from the family. Why should they be penalized when something is wrong, e.g., food, ship conditions, treatment by the captain or officers – all situations beyond their control? Why punish them because they complain, e.g., the wife of a Filipino crew on board a

dilapidated bathtub of a ship, unpaid for 6 months, comes to us and tells us to please not send ITF because if you call the inspector there, my husband will suffer negative consequences or get penalized? It is better for your chaplain to go on board to ask the seafarers to remit money to their families. There are many cases like this.

The Government should protect its citizens. Because we are begging for work in the world, land or sea based, sometimes all kinds of conditions, including bad ones, are overlooked as long as seafarers go and work. The Government must have the strength to say the benchmark: rights, dignity, protection of citizens/seafarers through proper approval/ratification of the convention.

The work of the Church is not against anybody; we simply assist all. Since the Convention is good for business and we have been discussing long enough, let's all have the courage to move on.

Issues and Concerns of Seafarers and their Families¹²

Ms. Joji Aguilar, President, Seafarers' Wives for Economic Empowerment and Transformation



"The Philippine Government must establish independent seafarer grievance agencies to provide speedy and accessible means of resolving seafarer claims relating to employment."

Allow me to share on the Magna Carta for Filipino Seafarers, particularly the provisions for their welfare and wellbeing.

Issues and Concerns

One issue is the high cost of upgrading courses. Instead of enjoying with their family after months of separation, the seafarer is bothered by these, some of which are repetitions. Savings intended for vacation with the

¹² See Annex 2c

family are to be set aside for these courses. Some are offered in Manila, so he needs to enroll there, leaving his family again.

Another issue is the manning agents' malpractice of delaying the remittance of salaries. The seafarer's wife then has to borrow at usurious rates, has a hard time budgeting and stretching resources to the next payday. Otherwise, she'd end up with the usurer. She may also be blacklisted for not paying credit.

Another is monetary claims in case of death, personal injury and abandonment of seafarers that are not fully paid. A friend whose husband died two years ago has not yet been paid by the manning agency.

Other issues are the employment age limit for seafarers and the need for livelihood training programs.

Recommendations

1. The training costs must be subsidized by the manning agency. Only relevant upgrading courses must be required.

2. The Government must establish independent seafarer grievance agencies to provide speedy and accessible means of resolving seafarer claims relating to employment.

3. Continuous employment must be based on mental and physical fitness, rather than age.

4. Link or network with relevant organizations, e.g., ICSW and other government agencies and NGOs that can help seafarers.

5. Encourage wives of seafarers to join organizations which can help them earn additional income for their families and build wholesome values for themselves.

I hope our recommendations will be taken up by the present agencies and organizations.

Social Dimensions

Dr. Erol Kahveci, Seafarers' International Research Centre
Cardiff University, UK



"...it is important to consolidate maritime convention by tripartite so the convention is an important and great achievement but its impact on seafarers remains to be seen."

I come from the Seafarer International Research Center in Cardiff University in Wales, UK, the only research institution that works on seafarers, that was established in 1995. We are focused on the global seafarer market, health and safety, welfare, families, woman seafarers, maritime education and training. Our research is for the potential benefit of seafarers and our projects aim at policy implications. We are self sufficient and research on commission from ILO, IMO, EU, etc. We work mainly on seafarer welfare and sail with seafarers to observe them on board for as short as two weeks to as long as 40 days.

My presentation is our research findings from 2004-2005 on the lives of seafarers on board car carriers. I surveyed 600 seafarers using questionnaire; 300 are Filipinos. I sailed on board 6 car carriers and spent 90 days on board. Always, there were Filipinos.

Demographics

Of all ranks, Filipino seafarers usually had land based experience as driver, farmer, fisher, from the service sector, which reflects the economic reality in the Philippines where people cannot afford not to work to maintain the basic necessities of life. Filipino seafarers contribute significantly to the national economy (see POEA stats). There is also high economic dependence, not only by their immediate families but also other relatives. On average, each seafarer has 5 dependents plus themselves, distinguishing them from other nationalities.

They are highly educated, 80% graduated or have equivalent qualifications, distinguishing them from others. They also face more racial discrimination than other seafarers.

About 38% said they were treated unfairly because of nationality. 56% of Filipino respondents said they received significantly less wages. They complained of contract discrimination and racial discrimination, e.g., our (other nationalities) blood is superior to Filipino blood, a fact of life for Filipino seafarers when they are at sea.

Only 14% of seafarers from European countries say they sail for economic reasons and lack of land-based jobs, compared with 70% for Filipinos. The shipping industry is driven by competitive disadvantage. The strategy is to utilize labor from poor areas of the world to attract them to work at sea, e.g., German ship manager pays Filipino seafarers US\$1,000. No German seafarer will work for such

because it is below the social security level. Yet the average Filipino seafarer is paid 7 times higher than industrial land based workers in the Philippines.

They heavily rely on manning agencies to access global labor market (97%), with only 3% self-hired.

POEA figures say over half a million seafarers are registered in the Philippines, but about 300,000 are surplus or can't be employed, so they are either *tambay* or actively seeking jobs. This competition for jobs is vulnerable to abuse by manning agencies who use unemployed seafarers for utility work not related to their profession, e.g., driver for free or minimum allowance.

Last year, there was a 4th engineer who has been *tambay* for the last two years in Manila, most of the time hungry. A friend of his father has a brother in a recruitment agency, so his father wrote this brother. He applied to the agency and waited for his turn. He prayed everyday that he be given a chance. After 3 years, the owner of the agency took him as a personal driver. For four months, he drove him from house to office and to conferences until midnight. He "lived in" because he also drove his kids to school and so had to wake up at 4:30 in the morning. Another seafarer was a domestic worker for this owner of manning agency. Some *tambay* seafarers had their number in the 300s, meaning 299 are ahead of them. Some kept diaries where they wrote many lonely stories.

Filipino seafarers also face insecurity in their job because the shipping industry always pursues cheaper labor.

The first time I went on board fourteen vessels, between 1998 and 2000, I met many Filipino seafarers. In 2003-2004, I went on board another six vessels but I heard them mention Chinese seafarers and other nationalities, so

they felt insecure and anxious that I didn't hear ten years before. They are now afraid to take longer leaves because they may lose their jobs. They are anxious to renew contracts because their jobs may not be guaranteed. They feel their position in the global labor market threatened and their fears are not groundless.

A crewing agency said they have fourteen resource countries: Bangladesh, Romania, the Philippines and eleven others. They also plan to go to China. Another crewing agency said they look at Romania, Bulgaria and others so they can hire from there if they needed to. And also Ghana, Ivory Coast, Indonesia, China, Venezuela, Ecuador, Cuba and Jamaica. Crewing agencies are always looking around, so it is very competitive, causing insecurity among Filipino seafarers; and that makes them vulnerable to abuses.

There is a general perception that they have "Yes, Sir" mentality. A Bulgarian 2nd engineer said he worked with Filipinos in the engine room. He said whatever he ordered, they say "Yes, Sir." An Ukrainian would say "later" or "it's not necessary". Filipinos, they go on with orders. A Chief Engineer said working with Filipinos is easy; when he requests, they just do it.

This is because they are vulnerable. They are not in a position to say "no." I asked them why they always "Yes, Sir." One said they are only ratings and are there to follow orders. Officers are good if a rating does his work well. They are afraid to lose their jobs because it is their profession. They need sacks of patience. Seafaring is very difficult but they just work for money. Officers say bad words and call them names but they are happy to be able to send money to their families.

They are very vulnerable vis a vis the Philippine economic realities and other countries moving into the seafaring market. Given this vulnerable environment,

national and international regulations may protect their rights and improve their working conditions.

National regulations

There are difficulties because seafaring is a big business/industry and supports many other industries including GOs, trade unions, maritime institutions, crewing agencies, the health sector, etc. So, national regulation is affected by these stakeholders, bearing in mind global conditions. The shipping industry in an unregulated environment.

International regulations

ILO Convention 180, which came into force in 1996, provides that seafarers should not work more than 72 hours in 7-day period, but our survey said 80% worked longer than 72 hours per week. This shows how regulations do not reflect reality.

On board a car carrier that I joined in Southampton in England for Japan. I found Bulgarian and Ukrainian officers and Filipino ratings. In the Mediterranean, a crack was found in the piston, the power of the engine, and there was a 200-liter engine oil leak that, after a week, grew to 20 tons a week. So it was very dangerous and was going to overflow the tank. If the piston could be reduced, it would still go but will reduce speed.

But the master said the ship had to meet its schedule so it couldn't afford to cut down on the piston. Because there was risk of fire and explosion, he asked two Filipino ratings to stand by the piston, armed with fire extinguishers; it was just like standing near a time bomb. It exploded at midnight when, fortunately, the oiler was changing watch in the control room. It could have killed the Filipino rating.

Why do they do it? Because of the existing structures of vulnerability, I can't imagine any European seafarer doing this. When I heard this, I wanted to leave the ship immediately, but the next ports of call were Alqabar and Saudi Arabia, so I couldn't get off for a week. I had to seek counseling when I disembarked at the UAE. Yet, no seafarer would get off the ship or that could be their last contract and they would also have to repatriate themselves.

It is important to consolidate maritime convention by tripartite. So, this convention is an important and great achievement, but its impact on seafarers remains to be seen.

OPEN FORUM



Roger Cordero -- Why always "Yes, Sir"? Seafarers have three rules aside from the local law: the international law, master law, shipowner's law. Rule 1 is "master is always right," up to the 3rd rule.

Dr. Kahveci -- I heard that, as a general comment. We have to look at the Master's power on board the vessel as the highest authority and as representing the shipping company. There's a reporting system at the end of the contract where he assesses seafarers' performance, report on them, including how economical they are using the ship's resources and equipment, how sociable they are, etc. So they need this good report from the Master to guarantee their next contract.

Actually, it is a forced 'Yes' on their part because of the problem of their representation; the current structure is that there is nothing that can be done, e.g., a Panama flag is owned by a Greek shipowner, manned by a Filipino crew and managed by Singaporeans.

Another example is the ship *Erika* in France that broke into two, causing a lot of pollution. The French government spent two years to find out its owner. In the light of this global and deregulated industry, what can unions do? They have no muscle to finance or file a court case wherever, no access on board, so no one can protect seafarers.



Eduardo Perez -- Regarding work hours, it's realistic that there is now less crew than in the 1980s when we were forty-three per ship. How can the Magna Carta be realistically followed? Where can they file a complaint, POEA again? In the Mediterranean, a container ship has only nine crew members, but

during maneuvering, even the cook is mobilized. If he meets an accident, it will not be considered related to his job of being a cook.

Dr. Payoyo -- There are two important documents that a ship with more than the stated minimum number of crew is required to have on board: the labor Compliance Certificate and the Declaration of labor Maritime Compliance. They have two parts: one filled out by the host inspector; the second, by the shipping company and pertains to what the company is doing in between inspections to comply with requirements ranging from manning, to wages, to overtime pay, etc. Seafarers have to endorse their work hours monthly. If one is fatigued, it is not good for both the seafarer and the ship. There are enforcement mechanisms to address possible areas of complaint on the part of seafarers.

Exploitation of seafarers also arises from the militaristic culture of the industry. So, it is difficult to strike a balance to both operate for their safety and to meet their welfare.

To file a complaint in the port, one has to write a complaint to the port state control officer and he's not required to divulge identity. If the complaint is serious, he can detain the ship or ask the shipping company how it will correct the problem that will be checked in the next port of call, on top of the normal grievance procedure from below upwards.

Mirko Herberg (FES) -- I gather two very contrasting views. One is very optimistic/upbeat regarding the convention. The other is skeptical regarding regulation and its effects. It is contradictory that the shipping industry is interested in taking care of the rights and the many accounts of pure exploitation.

How do we reconcile this? How does Dr. Kahveci assess the Convention and compliance? Will it dent significantly for seafarers?



Debbie Mellijor, Transparochial Migrants Federation

Dr. Kahveci -- ILO regulation is subject to flag state. The more of them ratify, the better it is for the seafarers. There's one theory from the trade union side that they are in close contact with the US Government. Like if the US says we don't accept any ships belonging to flag states who do not ratify the convention, what will flag states do?

Fr. Savino -- We should not be negative. The Convention won't solve all problems but it's always a step forward to make people more conscious both of the risks they face, and of the rights they need to defend. Therefore, it will create a positive impact, even more so because of globalization where ships

go anywhere. There may be other positive things, although we may be impatient because we have so many concerns and issues. We also want to form a greater sense of justice on the part of employers and other stakeholders.

Conclusions and Recommendations

Dr. Peter Payoyo

This Forum is a very first initiative regarding informing seafarers and other stakeholders. Thus, ITF and ICSW are very interested in the proceedings of this forum and they also want to know how to move forward. Since we can't hold group discussions given the limited time, we'll hold a plenary instead, which Ellene will facilitate and will focus on what steps we should take in the future.

1. Rep. Barinaga and Sen. Angara have committed to deliver a privileged speech in the House of Representatives and in the Senate, respectively.
2. File a bill, follow up on other related pending bills, and write our respective congressman to move these bills through Congress.
3. Disseminate information and conduct discussions on the 2006 ILO Maritime Convention.
4. Lobby the Government for the immediate ratification of the Convention.

Given that in two weeks Congress will recess, how will we move forward to enact a Magna Carta for seafarers factoring the newly adopted ILO convention?

Plenary



Main points

1. Fr. Savino recalled the Sea-and Land-based Advisory Group for Seafarers (SILAW), an active organization that advocated for the rights of seafarers in the late 1990s until it disbanded because of differences among its members.
2. NGOs for seafarers' representatives should get together as the prime movers to work on this. It should include good unions and doesn't have to be a formal structure.
3. Prof. Amante noted, the 2002 first conference under former Vice President Guingona produced a draft Magna Carta. What happened to that draft? We should follow that up. Ellene, in turn, noted that Rep. Barinaga and Sen.

Angara proposed this in their draft bills.

4. Dialogue with POEA and shipowners. While we are all united for seafarers, there are differing perceptions, given the realities that exist. (POEA Atty. Tan, administrative staff of Administrator Baldoz, responded that consultations on the Convention will start in November.)

5. Before going into a dialogue, we should be ready to get together. We should discuss what we can, first raising awareness on the Convention. Students can participate in education work, information raising/ changing mindset and introducing specific ideas.

6. Given the standard contract that is executive, we need to know the Convention first and relate this with the reality.

7. Debbie, a seafarer's wife and the President of the Transparochial Migrants Federation, promised that her organization would invite seafarers and share and discuss recent developments with them; then, they would bat for ratification, inviting Congressman Soon Ruiz to help lobby in the House.

8. Capt. Lorieto Cerds, a ship Captain from Palompon Institute of Technology and a first-time attendee, commented on the high cost of training courses, recommending (1) legislation for some training centers, and; (2) the reduction of excessive training fees, noting that a new graduate cannot afford to pay as much as P100,000 in fees. (Joji's group earlier recommended that manning agencies subsidize courses.)

9. There used to be a lot of dialogue between NGOs and the POEA, particularly during the consultation on the standard contract and rules and regulations. But things have died down now. Let us revive them in this direction. I appeal to POEA to take the initiative, as government has more

authority than NGOs clamoring for rights of seafarers. Government also has more clout to get manning agencies and shipowners together to meet and discuss openly, in order to get the reaction of all stakeholders in the maritime industry to be able to move forward. Fr. Savino also inquired what about other GOs concerned with seafarers aside from POEA?

10. There should be movement to recommend that government ratify in conjunction with ILO that can assist.

11. During the SILAW, it was easier to lobby POEA for NGO inclusion in the dialogue even if the unions, invoking tripartism, resisted NGOs. We insisted we work with non-unionized seafarers. We have to work for our inclusion.

13. *Edward Perez:* We should hold a series of meetings with seafarers wives and also seafarers organizations and agencies, MTC, etc. Let us also inform the seafarers and their families so that they will know about the convention. This should be a sustained awareness raising and information campaign.

14. Come out with a Convention primer in different dialects.

15. Write to Congressmen.

16. Mobilize the media.

17. *Dr. Payoyo:* For campaigns, we need to simplify to the level of the audience (form, language). We defer the honor to POEA, which should be in the frontline for national distribution of such information that should be acceptable and sensitive to the audience/stakeholders. This should be conveyed to Admin. Baldoz because she seems very sympathetic.

18. We need champions to push the seafarers' agenda for

us, to assume leadership.

19. *Ms. Wilfreda Misterio*, OWWA-Cebu Director: A topmost welfare concern is financial support to families, sufficient and regular allotment to families of both land- and sea-based seafarers. The question is regarding the legal beneficiary; 80% is remitted to the Philippines. The Magna Carta should include welfare of the family, for seafarers to return to a family intact. This is also in relation to the family and the Labor Code.

20. *Fr. Savino*: Let us all move towards ratification. POEA has people behind you and expect from you as Government. Consultations should move towards ratification. Meetings were tiring but in the world, they have moved towards the Convention. So, let us move as well

21. We should continue keeping in touch through networking.

22. We should start distributing the ILO Convention CD.

23. PSAP's Dr. Payoyo expressed his gratitude to CMA for the tri-sided coordination among Rotterdam, Manila and Cebu. He thanked those who contributed to the discussions, as well as those working on the ground, particularly Gerry, Arthur, and Mario. He also thanked Dodong, Cardiff University, AOS Davao, Misereor and Cordaid, FES, AOS Cebu and Fr. Savino of AOS Manila. He also mentioned the two side events: exhibit and reintegration seminar by the Ateneo School of Management's Atty Sedfrey Santiago.

24. Ellene promoted the CMA's SOS SMS sos sms hotline system that seafarers can also access. She also shared CMA's hotline cases involving seafarers, like those stranded in Oman.

Closing Remarks

Mr. Mirko Herberg, Friedrich Ebert Stiftung (FES)



"... we can showcase this convention as a common quest of employers and employees to respect labor standards, to talk and implement decent work."

I am among the participants who learned a lot in this forum. As a co-sponsor, we thank the organizers for providing information and inviting many respondents who participated from Manila and elsewhere.

We have heard two versions and would like to side with the optimistic version that the Convention has teeth to protect the interest of seafarers. It's really the human element that is at the core of the debate and the Convention.

We can showcase this Convention as a common quest of employers and employees to respect labor standards, to talk and implement decent work. It was mentioned clearly this came about because of the perceived win-win situation from employers and employees and because the industry needs quality labor which can be its competitive advantage; this should be made clear to stakeholders who are hesitating in the drive to ratify and implement this Convention.

We have taken the first step. The House and the Government clearly invite further input and increasing social dialogue that is needed, including employers. I'd like to see this spirit of cooperation and finding a win-win situation between employers and employees, limited not only to the maritime but also to other sectors because the working population doesn't stop with the seafarers and other migrant workers but also need to cover local labor.

If we succeed in implementing and showcasing cooperation between these sides, perhaps we can move decent work and relations in other sectors. Many points were raised and it is up to us to move on. So, let us move on and also move on to our families.



The National Forum on the 2006 ILO Maritime Labor Convention: Implementing the Magna Carta for Filipino Seafarers

ANNEX 1 -- List of Participants

NAME	ORGANIZATION
1. Peter Payoyo	PSAP
2. Golda Roma	CFO
3. Fr. Savino Bernardi	Apostleship of the Sea
4. Atty. Viveca Catalig	POEA
5. Carolina De Leon	POEA
6. Erol Kavhveci	SIRC
7. Ellene Sana	CMA – Phils.
8. Joji Aguilar	TESDA/SWEET
9. Mirko Herberg	FES
10. Cong. Roseller Barinaga	House of Representatives
11. Debbie Mellijor	VDRMA Lapu-Lapu CIiy
12. Marilyn Ybañez	VDRMA Lapu-Lapu City
13. Melchor Villanueva	Philippine Seafarers Union – ITF
14. Roger Cordero	MARINO
15. Edelin Esver	VDRMA
16. Marcelida Go	FILSEAL
17. Lea Roma	GUGMA
18. Bernadette Parco	Cebu City News
19. Junjie Mendoza	CDN
20. Arlene Pradiela	Seafarers Wives
21. Necandro Mendoza	Seafarer
22. Rudy Tubil	
23. Ma. Theresa Medrano	Filseal
24. Ruben Rabuya	
25. Joy Romelyn Villejo	PTC
26. Mario Quinal	FISSO
27. Noel Galinato	VDRMA
28. Leonita Pastorfe	SWEET
29. Richy Amatong	NSO
30. Fr. Vicente Romanos	AOS
31. Dr. Francisco Nemenzo	U.P.
32. Daisy Rio Daffhone	ALKAP
33. Gina Emperano	PRC
34. Grace Tan	POEA

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35. Evella Durato	POEA
36. Thelma Flores	Saints Alphonsus Catholic School OFWS
37. Prof. Maragtas Amante	U.P. SOLAIR
38. Mario Badilla	
39. Atty. Sedfrey Santiago	Ateneo University
40. Wilfreda Misterio	OWWA
41. Loreliza Garcia	TESDA
42. Bernarlita Apiy	VDR
43. Andre Cacafrana	VDR
44. Mildred Escono	VDR/SACS
45. Marissa Dopeño	VDR/SACS
46. Evelyn Pulvera	VDR/SACS
47. Jennifer Valenzona	VDR/SACS
48. Evangeline Codilla	FIL.
49. Eduardo Perez	FISSO
50. Merly Yap	UDJFIL
51. Sr. Magda	VDRMA
52. Victoria Galinato	VDRMA
53. Cecilia Galicia	Seafarers Wives Association
54. Atty. Loreen Cabaliw	Office of Sen. Angara
55. Juanilia Premne	NSO
56. Gerry Enjambre	GP Lines Inc.
57. Mariter Gader	ALKAP
58. Michele Collamat	CPAVEG-ALKAP
59. Sidney Ochea	VDR
60. Erniqueta Ochia	VDR
61. Fr. Rey Maldo, MSC	VDR
62. Honelyn Jane Baclig	VD
63. Everlie Malbo	VD/OFW
64. Fr. Jack Walsh	AOS - DAVAO
65. Lorieto Cerds	PIT
66. Jaime Enriquez	CERD
67. Jelle Eshuis	IJU
68. Hermiño Ardon	FISSO
69. Corazon Estremos	AOS
70. Marilou Acapulco	AOS
71. Allen Acapulco	AOS

72. Gloria Ricarte	AOS
73. Allan Varquez	Sun Star Daily
74. Josefina Remocrenas	Caregivers
75. Alvin Dizon	Palme Center
76. Buboy Belarmino	PIACO, INC.
77. Dennis Faller	PIACO, INC.
78. Tautali Sabalones	INTV-47
79. Jovel Sako	INTV-47
80. Patricia Cadaos	SWEET
81. Ruth Alseads	The Freeman Transport, Columnist
82. Iste Sesante	The Freeman Transport, Columnist
83. Insp. Joselito Pedaria	ITF
84. Imelda Badiik	FISSO
85. Minda Amora	CMA – Cebu
86. Esterdina Ramirez	TESDA
87. Levy Sajago	INTV-47
88. Arnel Dada	INTV-47
89. Maniliz Teñeso	
90. Angelina Catipay	
91. Victor Llaban	POEA-Cebu
92. Godfrey Rellin	GMA-7
93. Chona Carreon	GMA-7
94. Fr. Carmelo Diola	Friends of Pedro
95. Leah Bataan	VDRM Lapu-Lapu City
96. Arthur Ceniza	FSFCOI
97. Gerry Gonzales	FSFCOI
98. Mario Oville	ECMI-CBCP
99. Rhodora Abaño	CMA
100. Hazel Cotoner	CMA
101. Anna Liza Navarro	CMA

ANNEX 3 – Solidarity Messages

**As shared by Apostleship of the Sea-Poland
Pope Benedict XVI
Address to the People of the Sea
On the occasion of the Angelus
24th September 2006**

Next Thursday is World Maritime Day and I would like to invite all of you to pray for the men and women involved in seafaring, and for their families.

I thank the Lord for the work of the Apostleship of the Sea, which for many years has offered human and spiritual support to those who live this difficult and challenging way of life. I welcome particularly the recent initiatives taken by the International Maritime Organization to contribute to the fight against poverty and hunger.

May Our Lady, Star of the Sea, look down in love upon seafarers and their families and upon all those who care for their human and spiritual needs.

September 26, 2006

The International Shipping Federation and its sister Organization, the International Chamber of Shipping wish the Filipino Seafarer's Assistance Programme every success with their forthcoming conference and hope that it results in fruitful discussions.

Natalie Wiseman
Secretary
International Shipping Federation

To the National Forum on The 2006 Consolidated Labour Convention: Implementing the Magna Carta for Filipino Seafarers

The International Committee on Seafarers' Welfare would like to congratulate PSAP and CMA on the initiative of arranging the conference dealing with the new Consolidated Convention.

World trade depends on good transportation, and shipping will continue to be a key factor in the future. Today we see a clear public demand for quality shipping. To satisfy this demand, ships must be navigated and operated in a safe and efficient manner. This is only possible if we use qualified seafarers who are given decent living and working conditions.

The ICSW see a clear connection between a ratification of the Convention and good welfare services to the seafarers manning the ships and is keen to see as many countries as possible ratifying the convention.

International regulation of trade and industry is necessary, as well as rules for working and living standards. Decent working and living standards, including welfare services, must be our common aim.

Today, large numbers of workers in the world, including seafarers, suffer injustice, hardship and privation. The failure of any nation to adopt humane labour conditions is a burden for all of us. It is also a barrier for other nations who wish to improve conditions in their own countries.

The ICSW is very impressed with the PSAP and the CMA initiative to establish this Forum, which will probably give a strong focus on the new Convention and the need for ratification as soon as possible. It will hopefully underline

the role of decent working and living conditions as a major, if not the major, factor for safety at sea.

We wish you all good luck and know that the outcome of your event will speed up the process needed for all parties to see the importance of this work.

On behalf of the **ICSW**
Bjorn Lodoen
Chairman

Message of Support

Warmest congratulations to the Philippine Seafarers Assistance Program in Rotterdam and to the Center for Migrant Advocacy Philippines in cooperation with the Filipino Seafarers' Family Caregivers Association of Cebu, for organizing this forum on this occasion of the National Seafarers' Week in this month of September 2006.

This forum, which aims to raise the awareness and pursue initiatives at the National Level on the new Maritime Labor Convention is very timely in this age of globalization of the shipping industry. The Magna Carta for International Seafarers is a major stride in the advocacy of protecting and securing the rights of seafarers, of which the Filipino Seafarers, being the biggest nationality group in the global maritime workforce, hold a tremendous stake.

The Filipino Seafarers, through their resilience and hard work, have contributed greatly in keeping afloat the economy of this nation. This entitles them the utmost protection of their human rights wherever they may be in the globe. This Magna Carta is the realization and concretization of this endeavor. But the battle and fight is not yet over. This Magna Carta has to be implemented and the challenges it poses have to be met head on, otherwise, all efforts will be for naught and this great piece of legislation will remain a mere sheet of paper.

This forum will serve as the opportune venue to call the attention of the different stakeholders to their responsibilities in promoting and defending the primacy of the human element in maritime commerce.

On behalf of the Ateneo Human Rights Center, I, therefore, strongly urge everyone gathered here, who is at the forefront of advocating for the rights and protection of the Filipino Seafarers, to carry out in your own institutions the same spirit of courage and justice in advancing this cause.

Again, congratulations to the organizers of this forum.

Very truly yours,

Atty. Carlos P. Medina Jr.
Executive Director
Ateneo Human Rights Center

ANNEX 4 -- Selected Materials

Annex 4a -- Overview of the Situation of Filipino Seafarers

Source: Apostleship of the Sea Website
<http://www.stellamaris.net/page.php?s=3&p=513>

The Philippines

As a country, the Philippines is the largest single contributor to the world's merchant fleet. Despite perceived competition from other supply states, the numbers of Filipino seafarers onboard are increasing. Shipping companies appreciate the general character of Filipinos and their linguistic and professional abilities.

Another important factor in the hiring of Filipino seafarers is the Philippine standard employment contract stipulated by the POEA. The contract sets the monthly salary of seafarers at US\$385 plus overtime. This comparatively low rate of pay is attractive in the profit-oriented globalised shipping industry.

However the supply of trained Filipino seafarers is greater than the demand. The POEA register currently holds records of around 550,000 seafarers of whom 250,000 are at sea. Those in search of work must try their luck among the 360 manning agencies in Manila. This process can be costly and may oblige them to spend time away from their families. For recent graduates of maritime schools, competition for jobs is particularly fierce. Of the 25,000 ordinary and able seamen who graduate annually, only 8,000 to 10,000 find the job within a year.

Difficulties with contracts

Despite the existence of contracts and a compulsory minimum wage, seafarers often encounter problems. These include illegal demands for placement fees, delayed payments, contract substitution onboard, early termination of contract, endless litigation on compensation, age-limit restrictions, blacklisting, and unnecessary retraining demands. In the words of Fr Savino Bernardi, Director of AOS Manila:

In the ultimate analysis, a seafaring contract is mostly hanging on a thin thread of good luck, good health, good records and submission to a system that is less than fair.

Training

The Philippines has 89 maritime schools. Every year 60,000 new students enrol. Of these around 25,000 will complete the three year course successfully. The majority, around 20,000, will remain at the rank of Ordinary Seaman (OS) during their career at sea. Only about 5000 will return to maritime school after a period of "on the job" training in order to proceed to the rank of Able Seaman (AB).

Several years ago the Philippines had almost twice the number of maritime schools, more than the rest of the world combined. Following a national evaluation process, the number of schools was reduced to ensure greater adherence to international standards.

Life onboard

Generally, a contract onboard a merchant ship lasts for nine to twelve months. The crew comprises around 18 to 25 seafarers of various nationalities. At its worst, life onboard is harsh, lonely, and dangerous. Work can become a monotonous routine and recreational facilities are limited.

Language and cultural barriers may cause divisions among the crew. Discipline and authority are often strictly enforced, sometimes unreasonably.

Working with machinery and chemicals; lack of nutritious food; and insufficient space for exercise all threaten the health and safety of seafarers. Sickness and injury mean an end to future employment at sea.

According to data gathered by AOS Philippines from government sources, every year 200-300 Filipino seafarers die at sea. This figure does not include those seafarers who die subsequently of injury or illness sustained while onboard.

Spiritual risks

After weeks of loneliness and isolation, seafarers may have a strong need for comfort and social contact when they come into port. In many ports, drugs, alcohol and prostitutes are easy to find. Peer pressure and social anonymity pose a serious challenge. For seafarers, there is a struggle to maintain moral and religious convictions; fidelity to their wives and families; and their own self-esteem.

Conversely, in some ports security measures are now so restrictive that seafarers are unable to come ashore at all. They are denied opportunities to contact their families, go shopping or take exercise.

Many seafarers choose their profession in order to support their families. A seafarer's wages can provide housing, education and a better standard of living to his extended family. But long periods of separation can put pressure on marriage and family relationships. Some seafarers complain of feeling valued only as a source of income, not as a person. For spouses, facing family responsibilities alone can be a struggle.

Annex 4b - An overview of the Proposed Consolidated Maritime Labour Convention, 2006

The ILO and its work in the maritime sector

Seafarers and the conditions of work and living that they experience have always been of special concern to the ILO.

- The ILO's earliest legal instruments were aimed at improving the working conditions of seafarers.
- One of the first legal instruments that the ILO adopted was a Recommendation (National Seamen's Code Recommendation, 1920 (No. 9)), a year after the ILO was created, foreseeing the importance of the establishment of an international seafarers' code, which would clearly set out the rights and obligations relevant to this sector.
- Matters relating particularly to the situation of seafarers have also, from the beginning, normally, been considered at a special session, a maritime session of the International Labour Conference.
- The first Maritime Session of the ILO took place in 1920. Since then there have been 9 maritime sessions. The last was in 1996.
- The next Maritime session in February 2006 will be the 94th International Labour Conference and the 10th Maritime session.
- At this 10th session the ILO will devote itself to the review and adoption of an important new legal instrument, the Maritime Labour Convention, 2006, which seeks to fulfil the ideas first foreseen in 1920 – a comprehensive code regarding seafarers' rights

and the obligations of States with respect to these rights.

The ILO and maritime labour standards

- Since 1920 the ILO has adopted more than 65 legal instruments (Conventions and Recommendations).
- Taken all together these instruments comprehensively address all aspects of working conditions for seafarers.
- Issues that are addressed include concerns central to securing conditions of “decent work” for seafarers such as the minimum age for work onboard ships, hours of work, occupational safety and health protection, standards for accommodation and catering, access to medical care, repatriation, labour inspections and social security.

Changes needed to ILO standard setting

- The phenomenon described as “globalization”, has required that the ILO review its standard setting and supervisory activity with a view to ensuring that its standards are designed to achieve universal acceptance and that issues such as effective enforcement and compliance are directly addressed.
- In 1998 the ILO engaged in an examination of the maritime labour instruments (international Conventions & Recommendations) as part of an overall review of its standards and standard setting practices.
- Changes in the maritime sector meant that changes in standards were needed.

Changes needed to modernize ILO maritime standards

- This led to the idea in 2001, of the Workers and Employers in the Joint Maritime Commission, for a new approach to ensure: (a) comprehensive and effective protection of the seafarers’ rights to decent work and (b) a level playing field for Governments and Shipowners, with flexibility as to the means of delivering this protection and accommodating diversity.
- The Workers and Employers developed a number of preferred solutions or approaches to maritime labour standards, called the “Geneva Accord”, which were supported by Governments.
- A number of factors affecting the maritime sector led the ILO Governing Body to agree with the ideas in the “Geneva Accord” and to conclude that there was a need for a major revision of the existing labour instruments in order to better meet the need for international standards for decent work in the maritime sector.

Reasons for change

Reasons for change included the fact that:

- many of the existing ILO instruments need to be updated
- extensive structural change in the shipping industry, particularly in the last 25 years
- emergence of the world’s first genuinely global industry and workforce

- changes in ownership, financing and the rise of ship management companies resulting in significant shifts in the labour market for seafarers
- development of consciously composed mixed nationality crews in highly organized global network linking shipowners, ship managers, crew managers, labour supplying agencies and training institutions
- increased internationalization of ship registries and “flags of convenience”
- a need to provide a “level playing field” and avoid exploitation of workers
- increased stress and complexity in the maritime work place has an impact on the health and social security of workers
- there is a relatively low ratification rate for some key Conventions
- a high level of detail combined with the large number of Conventions led to problems for inspections and enforcement
- conditions of employment change rapidly but the process of updating Conventions in the ILO is expensive and lengthy

The purpose of the proposed maritime labour Convention, 2006

In 2001, the ILO Governing Body took a decision to develop a new instrument that would:

- consolidate nearly all existing maritime labour standards,

- meet current and future needs,
- address barriers to achieving universality in the acceptance of the standards, and
- ensure better and more effective implementation of the standards.

An extensive consultation exercise stretching over more than four years and involving up to as many as 88 countries, developed the proposed Convention text.

The new Convention is seen as having two primary purposes:

- to bring the system of protection contained in existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing, globalized sector;
- to improve the applicability of the system so that shipowners and governments interested in providing decent conditions of work do not have to bear an unequal burden in ensuring protection.

The draft Convention was reviewed in detail in September 2004 by a Preparatory Technical Maritime Conference (PTMC) involving over 500 delegates who adopted both the structure and the majority of the proposed Convention text.

A follow-up meeting in April 2005 developed additional text to address several specific areas that had been left unresolved by the PTMC and reviewed proposals for amendments that had not been considered at the PTMC because of time constraints.

The new draft convention adopted by the PTMC combines the “best of the old with the new”.

It combines core standards found in existing Convention with an innovative format aimed at achieving universal acceptance and a new approach to securing ongoing compliance and to more rapidly updating of the technical standards.

Format of the proposed maritime labour Convention, 2006

Three different but related parts:

- Articles
- Regulations
- a Code (Part A mandatory Standards, Part B non-mandatory Guidelines)

The proposed Convention is “vertically integrated” in presentation with the Regulations and Code provisions organised under 5 Titles:

- Title 1: Minimum requirements for seafarers to work on a ship
- Title 2: Conditions of employment
- Title 3: Accommodation, recreational facilities, food and catering
- Title 4: Health protection, medical care, welfare and social protection
- Title 5: Compliance and enforcement

Example of vertical integration (extracts):

Regulation 1.2 – Medical certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.) ...

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

Guideline B1.2 – Medical certificate

Guideline B1.2.1 – International Guidelines...

Innovations

Some innovative features of the new Convention include:

- a new system for effective enforcement and compliance - a certification system for labour standards (a Maritime Labour Certificate & a Declaration of Maritime Labour Compliance issued by the flag State)
- flag State certification and a foreign port inspection system applies to ships above 500 GT engaged in international voyages or voyages between foreign ports, however the certificate system is available, on request by shipowners, to other ships
- The Certificate and Declaration will provide prima facie evidence of compliance with the requirements of the Convention

- standards will still apply to most other ships (smaller ships can be exempted from some requirements) however, the port inspection provisions and certification requirements would not be mandatory.
- accelerated Convention amendment procedures to update Code provisions to address changes in the sector
- onboard and onshore complaint procedures to encourage rapid resolution of problems, if possible
- a complaint and inspection system that is linked with the well-established ILO supervisory system
- provisions setting international standards for flag State delegation of some functions to a Recognized Organization
- a modernized management based approach to occupational safety and health

Conclusion

The Maritime Labour Convention, 2006 is needed because it will:

- provide a modern system for improved and enforceable conditions for decent work in the maritime sector
- create, as much as possible, a level playing field in a globalized industry by ensuring that competition is not based on unjust, exploitive and unfair labor practices

Annex 4c

KUHANG MARINO: Images of Filipino Seafarers

28 to 30 September 2006
Parklane Hotel, Cebu City

In celebration of the national Seafarers' Week, the Jorge B. Vargas Museum of the University of the Philippines in Diliman, the Filipino Seafarers' Family Caregivers Association in Cebu, and the Philippine Seafarers Assistance Programme in Rotterdam present **Kuhang Marino: Images of Filipino Seamen** in Cebu City.

Kuhang Marino, a two-part exhibition on Filipino seafarers was first shown at the UP Vargas Museum, running from February to April of this year. It features a photo documentary of Filipino seafarers and their living and working conditions onboard ship, as well as the rich poetry they have contemplated at sea.

Kuhang Marino is a rare opportunity to share extraordinary moments with Filipino men and women as they sail the world's seas and oceans. Taking photos onboard is an extremely challenging enterprise since ship managers generally do not allow this, and seafarers, with busy shipboard schedules, are quite difficult to capture as photographic subjects. The photos in the exhibit are copyrighted to PSAP and Dutch professional photographer Johannes Ode. The poems, on the other hand, are literary contributions sent for publication to PAROLA, the PSAP newsletter. The exhibition is a first-of-its-kind collection of visual and literary documentation.

Kuhang Marino serves both as an artistic platform and advocacy medium, a worthy tribute to all Filipino seafarers as modern-day heroes of the world. The exhibition coincides with the **National Forum on the 2006 ILO**

Consolidated Labour Convention: Implementing the Magna Carta for Filipino Seafarers organized by PSAP and Center for Migrant Advocacy Philippines, also taking place at the Parklane Hotel on September 29.

Watch out for Kuhang Marino as its tours Filipino seafarers' home provinces in the Visayas. The exhibition will be brought to the UP in the Visayas – Iloilo Campus on November 2006.

Kuhang Marino is sponsored by Fuji Films – YKL Color Laboratories.

ANNEX 2 – Powerpoint Presentations

Annex 2a Forum Background and Objectives

Cover photo courtesy of Philippine Seafarers Assistance Program (PSAP)

Annex 2b The 2006 ILO Maritime Labor Convention: What Does it Mean for Filipino Seafarers?

Annex 2c Issues and Concerns of Seafarers and their Families