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WORLD MARITIME UNIVERSITY

Dalian, China

**Study of Noncompliance with MLC 2006 in
Protection on Rights and Interests of Seafarers
Serving on China's Coastal Vessels and its
Countermeasures**

By

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China

A research paper submitted to the World Maritime University in partial
Fulfilment of the requirements for the award of the degree of

MASTER OF SCIENCE

(MARITIME SAFETY AND ENVIRONMENTAL MANAGEMENT)

2015

DECLARATION

I certify that all the material in this research paper that is not my own work has been identified and that no material is included for which a degree has previously been conferred on me.

The contents of this research paper reflect my own personal views, and are not necessarily endorsed by the university.

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ABSTRACT

Title: Study of Noncompliance with MLC 2006 in Protection on Rights and Interests of Seafarers Serving on China's Coastal Vessels and its Countermeasures

Degree: Master of Science (MSc)

This paper is a study to find out the Noncompliance in Protection on Rights and Interests of Seafarers Serving on China's Coastal Vessels with MLC 2006, analyze the causes of problems existing in China's coastal seafarers' rights and interests safeguard, give suggestion of countermeasures of this issue thereafter.

The motive to study such a issue is driven by the implement of MLC 2006 which has entered into force from August 20th, 2013, but China has not ratified and joined. Along with the globe voice of “decent work” and the development of IMO Mandatory Audit Scheme, the enforcement of MLC will come true soon in China. The preparation of national legislation and actions related to the MLC 2006 shall be taken as soon as possible. Although the standard of MLC 2006 to national coastal vessel is lower than to International vessel, it is proved that human factors play important role in shipping safety throughout numerous maritime investigation analysis, which include the working and rest hours, living condition, welfares, and so on.

On the other hand, China is the world's seafarer power, but unlike other countries, China has not set up complete seafarers' rights and interests safeguard mechanism, which could not adequately protect the rights and interests of seafarers. Compared with onshore work, the advantage of seafarer's wages in China is more and more inconspicuous. The social status of seafarer's career in China reduces. The protection of coastal seafarer's rights and interests is poor in China. More and more seafarers are unwilling to work on their careers and lack career identity.

Comparison of rights and interests protection is made between the status quo of coastal seafarer group and the requirements of MLC 2006 to provide an outlook on the regulatory aspect. Afterwards the problems existing in China's coastal seafarers' rights and interests safeguard are analyzed, to find out the causes of problems. Finally, suggestions are brought out to perfect national seafarers' rights and interests safeguard mechanism. By the legislation, reform of related system, supervision of rights and interests, carding and playing role of relevant main bodies.

KEY WORDS - MLC Convention, ILO, Coastal Seafarer, Rights and Interests, Tripartite mechanism

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| LIST OF ABBREVIATIONS | |
|------------------------------|---|
| COC | Certificate of Competency |
| FSC | Flag State Control |
| GT | Gross Tonnage |
| ILO | International Labor Organization |
| IMO | International Maritime Organization |
| ISM-Code | International Management Code for the Safe Operation of Ships and for Pollution Prevention |
| KW | Kilowatt |

| | |
|-------|--|
| MLC | Maritime Labor Convention |
| MSA | Maritime Safety Administration |
| SOLAS | The Convention for the SAFETY of Life at Sea |
| PRC | The People Republic of China |
| STCW | The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers |

CHAPTER 1: INRODUCTION

1.1 Background of Research Project - Common requirements of ILO and IMO to the decent work of *seafarers*¹

The International Labor Organization (ILO) adopted the international maritime labor convention 2006 (hereinafter referred to as “the MLC 2006”) on February 23, 2006, which is called global seafarer's bill of rights on the basis of the existing most of maritime labor standards. The Crew Regulations of the People's Republic of China (hereinafter referred to as “the Crew Regulations”) has entered into force since on September 1, 2007, which is an important measure to safeguard the legitimate rights and interests of seafarer, strengthen the managements of them under legal security framework in China. China also issued a series of rules and regulations and took a series of more comprehensive measures in terms of seafarers' protection and management in recent years. However, there are still some problems to seafarers' legitimate rights and interests' protection and management. For example, seafarers' labor protection and social security is not fully implemented, the lawful rights and interests of the seafarers' needs further maintenance. In fact, because of low wages, quite a number of seafarers including many senior seafarers have felt with discontent emotion to their companies

¹ “*seafarer*” means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies. (*Article II.1.(f)*) (MLC, 2006).

and their occupational boredom, which resulted they work without concentration and responsibility, even with slackness and jobs absence, more serious, ship frequent demurrage, cargo damage, material waste, not timely ship maintenance, and repair projects in shipyard to expand, which make the marine cost increase greatly. The large gap between the low wage and high cost and social prejudice to seafarers lead to no decent work of seafarers who have not active motivation to take part in training and self-improvement, which makes the whole quality of the seafarers without improvement in China, experienced seafarers' rapid demission. These problems not only hurt the seafarers' working enthusiasm and affect the physical and mental health of the seafarers, but also make it difficult to attract talented young people involve in shipping, and even serious threat to maritime safety of life and property and impose negative impact on shipping industry.

Due to the lag in protection legislation of seafarers' rights and interests in China as well as the unsound safeguard mechanism, the legal status and protection of rights of China's seafarer is not match with what they make great contribution. Who shall maintain Seafarers' rights and interests, how to safeguard the vital interests of the seafarers, not only attract the common attention from shipping industry in China, but also can be the important task in the future to build harmonious and powerful maritime country. The Maritime Law of the People's Republic of China (hereinafter referred to as "Maritime Law") has no specific rules for seafarers' rights and interests' security, Crew Regulations is not clear for the crew's rights and interests and lack of specific regulation of seafarers' rights and interests safeguard mechanism. The MLC 2006 covers five aspects of seafarer labor protection regulations. The agreement is reached that seafarers need special protection because of the global character of shipping industry and special risk. The specific requirements to safeguard the seafarers "decent work" is put forward.

1.2 Objective of the research project

The primary objective of this research project is to find out the Noncompliance in Protection on Rights and Interests of Seafarers Serving on China's *coastal navigation areas*² with MLC 2006, analyze the causes of problems existing in China's coastal seafarers' rights and interests safeguard, give suggestion of countermeasures of this issue thereafter.

Unlike international seafarers adjusted by the Measures for the Administration of the Seafarers' Working and Living Conditions Onboard of PRC (hereinafter referred to as "Measures for the Administration") which regulate requirements for seafarers to work on a ship, employment, entertainment, food, medical care, welfare and social security protection, there are not administrative instruments for rights and interests protection of the seafarers serving on domestic coastal ships. Therefore, the author thinks it necessary to take further analysis and discussion on domestic coastal seafarers' rights and interests protection refer to international convention and foreign successful practices. Then some countermeasures for national coastal seafarers' rights and interests' protection are brought out, including developing special legislation reforming the seafarer labor mediation system and improving the supervision mechanism.

1.3 Methodology

The research work for this project takes example from international convention and foreign experience and operation mechanism and characteristics, and combined with the current domestic relevant laws and regulations, thought normative analysis, empirical analysis, comparative analysis and historical analysis method.

The field interviews to seafarers are taken to understand the status quo of rights and interests of coastal seafarers, the chapter 2, 3, 4 are based on wide range of literature

² "*coastal navigation areas*" means including the offshore areas of China, the yellow sea, east China sea, the south China sea and China's coastal waters of the port (the Survey Rules of Vessel, 2011).

review, such as IMO documents, international convention, journals and information on website.

1.4 Structure of the Dissertation

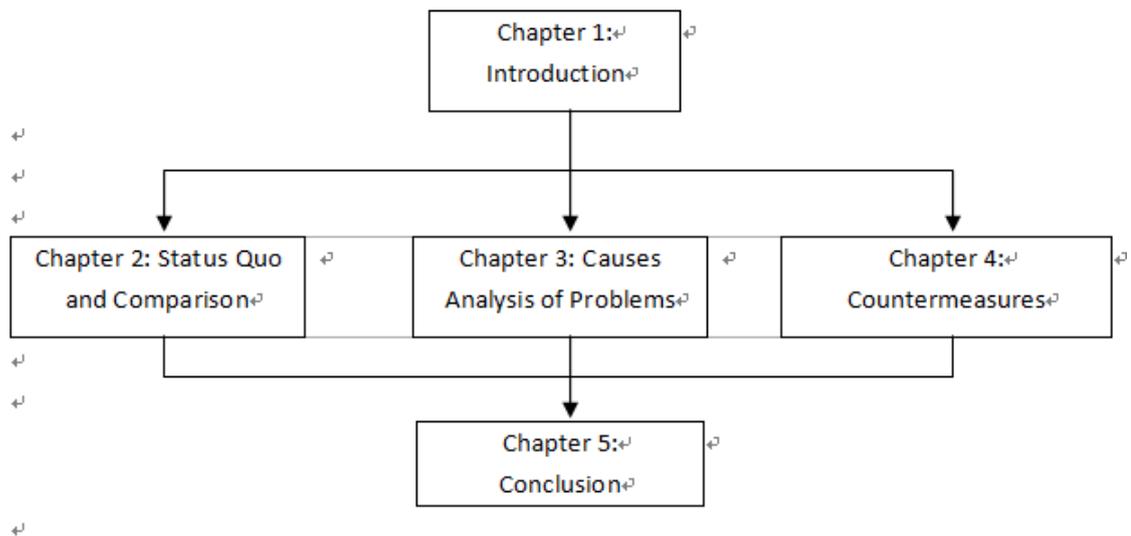


Figure 1-1: Systematic structure flow chart for the thesis

CHAPTER 2: Status quo of rights and interests protection for domestic coastal seafarers

2.1 Introductory remarks

There is the largest number of seafarers in China. The total registered number of seafarers is 574, 117 by December 31, 2013, which is one-third of the world. Respectively, the number of international seafarers is 419, 029, the coastal one is 155, 088 (China MSA, 2014). Besides rather seafarers who hold international voyage certificates perform coastal navigation, actual coastal voyage seafarers are more. At present the 45. 8% of domestic freight is carried by the national shipping industry (Lu, 2013), so coastal seafarers make a huge contribution to the development of national economy.



Figure 2-1: The coastal areas of China

(Source: fao.org)

However, the gap of rights and interests protection standard between China's coastal seafarers and international ones exists, the main problems contain seafarer fatigue work, lack of enough rest, no timely wages and subsidies from ship owners, illegal Labor contract, no special professional social security, poor labor living conditions, lack of effective channels of complaints and rights safeguard between the ship and shore, etc (Pan, 2013). This situation greatly harm the seafarers' rights and interests, discourage the seafarers' work, go against the development of shipping industry in China and seafarers' rights and interests protection compatible with the world.

At present, the laws related to coastal seafarers' rights protection are mainly administrative regulations "Crew Regulations and department rules -- "the crew service management regulation 2008", the Rules of Crew on watch 2012 and a series of survey technical specifications, etc. Because there is no legislation of seafarers' rights and interests protection with uniform standard. In practice according to applicable legislation of land workers, the shipping companies formulate their own internal rules which are different in different in safeguard standard of seafarers' rights and interests, each exist big contrast.

In order to better analyze and understand the status quo of the rights and interests protection of the coastal seafarers in China, the author classified the member group in seafarers of state-owned and private shipping company.

2.2 Seafarers in state-owned shipping companies

Before Chinese economic reform, the state-owned shipping companies are almost all transport body. Although their proportion in whole industry has shrunk in recent years, they often employ seafarers by themselves or recruit by their own crew companies, train them before job onboard, and handle various required ship certificates and formalities. Shipping companies sign labor contract with seafarers to regulate the rights and

obligations of each other. The crew labor contracts include the labor protection of seafarers, vacations, rest, welfare, insurance, and other terms.

The seafarers' working conditions and protection mainly focus on three aspects, first, seaman labor time; Second, the seafarers' payment vacation; Third, the seaman labor safety, accommodation, health and medical care. But in actual implementation seafarers hardly have the right to paid leave. Instead, big gap exists in salary and welfare during between the period of leave and work. Seafarers who stay for assigned work cannot enjoy the rights and obtain the labor remuneration.

In social security, the existing most of the state-owned shipping companies make the provisions of the workers generally reference to "Labor Law". The contribution of their social security mainly has two parts. One is a certain amount of seafarer's salary to pay "four funds", namely, pension insurance fund, unemployment insurance fund, medical insurance fund, housing accumulation fund. The other one is from monthly payment "four funds" of company for each officially registered seafarer which is combined and cumulative deposited with the first one in the respective accounts. All seafarers' welfares are not borne by the company completely, but a society plan as a whole and individual account combination of pension, medical insurance system.

2.3 Seafarers in private shipping companies

With the deepening of reform and opening up, transportation body of China's shipping market presents the diversification. Private shipping companies make a rapid development, which have become an important part of the shipping industry. Except themselves are stake ship-owners, seafarers in private shipping companies mainly come from social recruitment who are called social seafarers (or individual seafarers) generally provided by the paid crew service agencies (namely "the mediation"). Most of these seafarers signed the crew labor contract or agreement for onboard with the owners.

Social crew signed with shipping company generally short-term contracts as no more than one year, namely the agreement for onboard.

Although the wage income of social seafarers is higher than seafarers in state-owned shipping companies, the cost of social security of seafarers is paid partly even not paid which not only brings the risks of seafarers' health care and pension in the future, but also greatly damages the seafarers' fundamental rights and interests as individuals and increases the instability of society. One of risks is the no security of seafarers' professional quality and ability and the business lack of train for crew from the owner; secondly, the labor safety and living conditions cannot be ensured; thirdly, rights and interests of the social security cannot be implemented; fourthly once labor dispute appears, seafarers' interests cannot be guaranteed. The author has read several crew contracts of individual seafarers in private shipping company and found that most of them are unequal. Almost each contract displays at least 20% of monthly wages as collateral, close off after disembarkation, which power of interpretation is owned by the shipping company. There are many terms of inequality, such as seafarers wages are not paid on a monthly basis on time or even default, general leave location must be convenient port and so on.

With increasing the number of seafarers in recent years in China, social seafarers are generally recruited by the crew labor service agencies and pay a certain commission to those agencies. What's more, seafarer is a high-risk career, but there are almost no constraints to the crew labor service agency or shipping company in the crew contract. Once the seafarer is injured or dies on board, etc., the phenomenon tends to occur that the ship company and crew labor service agency mutually making excuses.

2.4 Gap analysis between MLC 2006 and provisions of law about the crew's rights and interests in China

2.4.1 Concept of seafarers' rights and interests

1). The provisions of the MLC Convention

The first one is freedom of association and effective recognition of collective bargaining rights; the second is to eliminate all forms of forced and compulsory labor; the third is the effective abolition of child labor; the fourth is the elimination of discrimination employment and occupation (MLC 2006). The Convention also specifies the crew employment and social rights, such as for each seafarer to benefit from the following: one is entitled to both comply with safety standards of safe and protected workplace; the second is all have the right to a fair employment conditions; the third is they have rights of decent working and living conditions on board; the fourth is the right to enjoy the health protection, medical care, welfare measures and other forms of social protection. Besides, each member shall ensure that in their own areas specified by the preceding paragraphs of this article seafarers' employment and social rights are fully implemented according to the requirements of this convention. It includes: wage claims for seafarers, crew enjoying the right of demand return to prescribed places in the legal and reasonable condition; crew's right to the statutory holiday (Lu, 2013).

2). The regulations of China's laws

In China, the Labor Law of the People's Republic of China, the Labor Contract Law of the People's Republic of China, the Law of protection Minors of the People's Republic of China, the Law of Protection Women's Rights of the People's Republic of China and other laws and regulations protect the rights of freedom of association and collective bargaining, ban forced and forced labor, abolish child labor, the elimination of employment and occupation discrimination through domestic laws. The Crew Regulations regulate the crew wage claims, the rights of rest and vacation, the right of demand return, social insurance rights and interests, health, safety, and security (Crew Regulations, 2007).

At present, the world shipping industry is committed to achieving the crew of decent work. Currently, there are not obvious regulations of "decent work" in China's crew legislation. the rights and interests defined in China's laws and regulations are relatively scattered.

2.4.2 Gaps between MLC 2006 and provisions of law about the crew's rights and interests in China

1). The minimum requirements of seafarers onboard work

Laws in China lack to give further examination opportunity or other relief channels for seafarers whose medical certificates are refused to issue or are limited. MLC adopts strict limits to service organizations on the provisions of the license. On contrast, the Crew Service Management Measures have low threshold to institutions set up, which have no handling mechanism of complaints from corresponding seafarers to seafarer recruitment and placement services. A protective mechanism has not been established, which can ensure appropriate compensation to the seafarers whose capital losses are caused by the recruitment and placement services or the owner who fail to carry out the obligation to seafarers in accordance with the employment agreement through insurance or equivalent measures (Yu, 2008).

2). Seafarers' employment conditions

a. Seafarers' employment agreement

The MLC 2006 regulates the shortest time limit for 7 days in advance to terminate the employment agreement between shipowners and seafarers. The time is 30 days under the provisions of the Labor Contract Law in China.

b. The seafarer's wage regulations in employment

➤ The seafarer's wages

The MLC 2006 gives the difference in the basic wages from the remuneration in crew normal working hours and overtime pay, bonuses, allowances, paid vacation, or any other additional remuneration. The definition of the crew wages in China is not concrete, targeted, and conducive to practice; the collection of individual income tax to the seafarers is not exempted.

➤ The seafarer's wage payment

The MLC 2006 establishes a mechanism of the crew wages paid all or part to the family as the crew wages payment method in the form of law, which is more mandatory and normative. There is not the legislation to decide the crew wage payment method in China. Only some companies introduce the crew wage payment mode in the form of the articles of association of the internal specification, which is relatively backward in comparison.

The MLC 2006 gave detailed rules about the overtime pay in guide parts, which distinguish between the general overtime work and merging overtime work. The two overtime wage rates are respectively given more specific qualification requirements. The wages shall be paid to seafarers asked to send and time off under MLC2006. The Crew Regulations also makes similar rules but not specific.

➤ The minimum wage of seafarer

The MLC 2006 introduced tripartite consultation mechanism, to establish the procedures to determine minimum wages for seafarers, in addition to the regulations of the minimum wage, the standard of reference and the principle is precisely defined. The minimum wages for seafarers are fully secured. At the same time, the minimum wage for seafarers is required adjust according to the actual situation. Also in the protection of seafarers' minimum wage payment timely and effectively recover, the authorities must fulfill its effective monitoring and functions of sanctions.

At present the minimum wage of seafarers is only based on "Labor Law", specific quantity is stipulated by people's governments of provinces, autonomous regions and municipalities directly under the central government. Such provisions are based on the working environment of the seafarers and the consideration of the difference from the normal laborers working environment. If the minimum wage is unified in accordance with the provisions of the "Labor Law", the seafarers must be adverse due to the big regional difference (Lu, 2013).

Table 2-1. The seafarer wages prediction of April, 2015 (Source: cnss.com.cn 2015-04-02)

| Navigation area Job certificate | Ocean3 (\$/month) | | | Short-range ocean4 (\$/month) | | | Coastal first-class5 (\$/month) | | Coastal second-class6 (\$/month) | |
|------------------------------------|--------------------|-----------|--------|-------------------------------|-----------|--------|---------------------------------|--------|----------------------------------|--------|
| | Bulk/general cargo | Container | Tanker | Bulk/general cargo | Container | Tanker | Bulk/general cargo | Tanker | Bulk/general cargo | Tanker |
| Master | 7200 | 7400 | 9000 | 6500 | 6600 | 8100 | 34000 | 36000 | 30000 | 32000 |
| Chief officer | 6500 | 7000 | 7400 | 6200 | 6400 | 7400 | 23000 | 24000 | 22000 | 24000 |
| Second officer | 2600 | 2900 | 3400 | 2600 | 2800 | 3600 | 9000 | 10000 | 8000 | 10000 |
| Third officer | 1200 | 1400 | 2000 | 1300 | 1400 | 2000 | 6000 | 6500 | 6500 | 7000 |
| Cadet of deck | 300 | 400 | 400 | 300 | 400 | 500 | 1500 | 2000 | 2000 | 2100 |
| Chief engineer | 7000 | 7100 | 8600 | 6400 | 6300 | 8000 | 32000 | 35000 | 30000 | 32000 |

| | | | | | | | | | | |
|---------------------|------|------|------|------|------|------|-------|-------|-------|-------|
| First engineer | 6500 | 7000 | 7400 | 6200 | 6400 | 7400 | 21000 | 24000 | 22000 | 24000 |
| Second engineer | 2600 | 2800 | 3400 | 2500 | 2800 | 3500 | 9000 | 10000 | 8000 | 10000 |
| Electrical engineer | 2500 | 2700 | 3500 | 2100 | 2300 | 2600 | 7500 | 8000 | 6500 | 8000 |
| Third engineer | 1200 | 1400 | 2000 | 1300 | 1400 | 2000 | 6000 | 6500 | 6500 | 7000 |
| Cadet of engine | 300 | 400 | 400 | 300 | 400 | 500 | 1800 | 2400 | 2000 | 2100 |
| Bosun | 1100 | 1300 | 1350 | 1000 | 1000 | 1100 | 6000 | 6500 | 6500 | 7000 |
| Master mechanic | 1100 | 1300 | 1350 | 1000 | 1000 | 1100 | 6000 | 6500 | 6500 | 7000 |
| Sailor | 900 | 950 | 1100 | 900 | 900 | 950 | 5000 | 6000 | 5000 | 6000 |
| Mechanic | 900 | 950 | 1100 | 900 | 900 | 950 | 5000 | 6000 | 5000 | 6000 |
| Electrician | 900 | 900 | 1000 | 1000 | 1100 | 1200 | 5600 | 5000 | 4000 | 6000 |
| Chef | 1100 | 1000 | 1200 | 900 | 950 | 1000 | 5500 | 5500 | 5000 | 5500 |
| Waiter | 600 | 700 | 800 | 500 | 600 | 700 | 2300 | 3000 | 2500 | 2700 |

3). The leave entitlement of seafarers

3 “ocean areas” means any navigable waters of the sea, including open ports around the world and the international navigation canal and rivers (the Survey Rules of Vessel, 2011).

4 “Short-range ocean areas” means between 55° N and the tropic of cancer with the west of 142° E in the Pacific waters between the equator and the tropic of cancer, the waters of 99° E~ 130° E in the Pacific Ocean (the Survey Rules of Vessel, 2011).

5 “first-class” means the CoC can serve on the vessel of 3000 GT above or 3000KW above (STCW, 2010).

6 “second-class” means the CoC can serve on the vessel of 500-3000 GT or 750-3000KW (STCW, 2010).

a. The provisions of seafarers' paid leave rights

The MLC 2006 defines the rights of annual vacation with payment and onshore rest with two principles. One is the category of the rights of paid leave, including the right of leave, vacation allowance claim, right of defense; the other defines the basic calculation method of annual vacation with payment.

In China, different from the Convention -- not less than 2.5 days each month work onboard, the Crew Regulations regulates the crew shall enjoy the annual leave of not less than 5 days every 2 months (Wang, 2013a).

b. Methods and remuneration of paid vacation

The MLC 2006 explicitly forbids any agreement to abandon enjoying minimum annual vacation with payment except the case formulated by the competent authorities, which is based on the perspective to protect the interests of the crew. In China, there is not strict requirement and provisions on vacation payment. Convention guide B rules the vacation payment according to the seafarers' normal levels. The Crew Regulations lack provision of the calculation method of average wage, but regulates the leave payment shall be not lower than the average wage of the crew work onboard.

4). Rights of seafarers repatriation

The Convention specified the seafarers shall pay the repatriated expense due to their own serious derelictions of duty based on the principle of fairness. There have been not specific regulations regarding seafarers' whole rights in China.

According to the MLC 2006, advancement of repatriation expenses is the obligations fulfilled by the member states. At the same time, the member states must ask their ships to provide financial guarantees for reasonable crew repatriation. The member states which have the paid repatriation expenses can detain the ships or the shipowners' other

ships, let the owner pay for reimbursement (MLC, 2006). By contrast, there is not the relevant legal regulation about the aspect in China.

5) The seafarers' compensation claims

a. The claim of seafarer personal injury compensation

There is not a perfect protection mechanism and the law for crew personal injury compensation claim in China. The Maritime Law and the Crew Regulations have only principled regulations without specific enough measures. Related regulations have not made specific provision to various kinds of compensation and calculation methods due to the imperfect system, which results in that the personal injury compensation can not be get timely and effectively by seafarer.

b. The claims of seafarer property damage

The seafarer's personal carried money and other valuables in China will not be recognized when they are damaged onboard, but their personal necessities can get appropriate compensation in accordance with the strict actual loss.

c. The claim of seafarer's unemployment compensation

The MLC 2006 specifies the crew unemployment compensation calculation that the crew can get unemployment compensation, which compensation standard is two months of contracted wage, and has the same legal relief way for unpaid wages. But the crew unemployment compensation system is not enough perfect and specific in China. Crew unemployment compensation ultimately is paid by the unemployment insurance institutions according to the Crew Regulations, which is one-month wage and notice of 30 days in advance, such provisions equivalent to ordinary workers, no highlights the particularity of seafarers.

6) The protection of seafarer's living and entertainment rights onboard

One of the MLC 2006 principles is to ensure every seafarer have a right of decent working and living conditions on board. Compared with it, there have not been specific and perfect regulations of the living room and recreational facilities stipulated in China, the request of decent work inadequate. In addition, the MLC 2006 endowed the competent authority with the examination duties to ensure the content of its rules be fully realized, but there has not established relevant supervision mechanism in China.

There are obvious differences in the design standards for crew accommodation between the Statutory Survey Rules for Domestic Voyage Ships of China 2011 (hereinafter referred to as "the Survey Rules") and MLC 2006. The first one is the height requirements of accommodation and channel for freedom and activities of seafarers, not less than 2030 mm in MLC 2006, the number is 1980 mm in the Survey Rules. The second example is the unit deck area of seafarer's bedroom on the non-passenger ship, obvious difference as shown in table 2-2. The third one is the volume of each habitant wardrobe, at least 475 litres in MLC 2006, not less than 304 litres according to the provisions of the Survey Rules (Survey Rules).

Table 2-2. The comparison of bedroom design standard under between MLC 2006 and the Survey Rules 2011

| Gross tonnage | < 3 000 | ≥3000 | ≥10000 |
|-------------------------------------|--|-------------|----------|
| The level of seafarer | | < 10000 | |
| | Deck area of the Survey Rules / MLC 2006 (m ² / person) | | |
| Ordinary seafarers (Single bedroom) | 3.75 / 4.5 | 4. 25 / 5.5 | 4.75 / 7 |
| Ordinary seafarers | 2.75 / 3.5 | 3. 25 / 5.5 | 3.75 / 7 |

| | | | |
|--|------------|----------------------|--|
| (twin room) | | | |
| Senior seafarers | 6.5 / 7.5 | 7.5 / 8.5 | |
| Ordinary seafarers and Special persons (passenger ships and special purpose ships) | 2.35 / 3.5 | One-person bedroom | 3.75 / 4.5 |
| | | two-person bedroom | 3.00 / 3.75 |
| | | three-person bedroom | 3.00 / 3.833 |
| | | four-person bedroom | 3.00 / 3.625 (>3.6 on special purpose ships) |

Source: Wang, 2013b

7) The seafarers' rights and interests of medical treatment, welfare and social security onboard and on shore

Rule 4.1 of MLC 2006: The ship and shore medical: member states shall ensure adequate ashore medical facilities. The ship health care measures standard should be the same as the ashore level. Rule 4.4 regulates the availability of ashore welfare facilities from member states.

Crew Regulations do not consider the reality that the remote port away from city is lack of health care and welfare facilities. The standard equipped with the medical equipment and drugs of clinic onboard of PRC clear rules specific requirements of medical equipment and common drugs, but lacks of supervision and enforcement mechanism. The seafarers' social security provisions under the Crew Regulations are not specific enough.

CHAPTER 3: The analysis of the causes of inadequate protection of the rights and interests of the coastal seafarers

3.1 Introductory remarks

Imperfect legislation and inadequate service safeguard of the rights and interests of the seafarers from related party and supervision is the root cause of the poor condition of coastal seafarers' rights and interests of, as following

3.2 Imperfect legislation of rights and interests protection of China

3.2.1 The legislative status quo of seafarers

An overhaul crew law of the seafarers' labor relations in China is still blank. The legislative forms for adjustment of the existing labor rights and interests mainly include

a. General labor legislation

- Constitution of PRC regulates labor and employment conditions, labor remuneration and welfare benefits, labor and employment training, rest and vacation right of laborer, the relief right, education right, cultural activities right and equal rights of women;
- The labor contract law of PRC, labor law of PRC, social insurance law of PRC;
- The regulation of workers' annual vacation with wage payment, the regulation of injury on work and insurance of PRC and other administrative rules and regulations;

➤ The international treaties China has entered into.

b. Maritime labor legislation

Main performance is in the form of administrative regulations and rules of ministries, the Crew Regulations, the registration administration measures of the crew of PRC, the crew service management rules of PRC.

3.2.2 The existing problems in the crew legislation

The obvious defects of China's crew legislation are dispersed, mostly in the form of administrative regulations and rules, low power. The Crew Regulations are the provisions under the maritime legislations, which makes those provisions relating to the maritime labor inspection of crew pale under the existing labor law system.

3.3 The low-efficiency coordination of seafarer labor relation

3.3.1 Labor union role not in place

The shipowners association constitution of China regulates that the association follows business guidance and supervision of the government, and assists the government department in charge of industry management, which mainly meets the administrative and political purpose. By contrast, most of the foreign shipowner's associations do not have political purpose whose general performance is third party liability of society; their governments have not the business guidance function for labor union. Chinese seamen's union is severely not in place in important function and purpose of maintaining and improving the working conditions of laborer, improving the economic status of the workers (Lu, 2013).

3.3.2 Unsound tripartite consultation mechanism of maritime labor

Tripartite consultation mechanism is one of the basic principles in the MLC 2006, also a basic operation mechanism of the ILO. In response to the MLC 2006, the tripartite mechanism of maritime labor construction of was built in China at the end of 2009. The three representatives respectively are the ministry of transport on behalf of the government, the shipowners' association of China as employer representative, the seafarers construction union of China on behalf of employees, the ministry of transport, the shipowners' association of China and the seafarer construction union of China make up the tripartite maritime consultation mechanism.

3.4 Problems of daily supervision and management to protect the rights and interests of the seafarers

3.4.1 The uncertainty of responsibilities of main body of the crew labor supervision, overlapping management

The provisions of the Crew Regulations stipulate the national maritime authority is responsible for the unified implementation of crew management work according to the regulations. At the same time, the administrative department for labor security shall strengthen the supervision and inspection to the employers' compliance with laws, regulations and other relevant provisions of labor and social security. The administrative department for labor security did not perform their duties and not in place of the crew labor inspection in actual work. The maritime authority has professional skills on the supervision of labor inspection, but has no right from the Crew Regulations. On the contrary, the administrative department for labor security has the right but lack of professional skills and of the absence. Above defects caused that the crew can not find the competent authority when their relevant rights and interests are violated which leading to the security problems of rights and interests is not solved.

3.4.2 Non- all-round content of the crew labor supervision

There are only two provisions relating to the supervision of employers in terms of crew labor under Crew Regulations. One of them is about conducting supervision and management to the crew training and service institutions. The other one is to supervise the situation of employers' protection of the legal rights and interests of the crew. There are nine provisions involving the supervision of employers under the Regulations of Labor Insurance and Supervision of PRC. One of supervisions is the situation of the rules and regulations on labor security established from employers. One is the supervision of the labor contract concluded by employer with laborer. Another one is to monitor the compliance of banning the use of child labor, etc (Regulations of Labor Insurance and Supervision, 2004). The supervisory matters of two regulations are focused on the work conditions of crew, while ignoring the accommodation supply, living room, recreational facilities and seafarers' life, resulting in the problem that the implementation of supervision power could not be in accordance with laws.

3.4.3 The supervision mechanism of seafarer union not yet effective implementation

Chinese seafarer union is the leading body of national labor union organizations at all levels of the transport system, whose function is to protect the worker legitimate rights and interests, such as supervision right, investigative right, the right to put forward opinions in accordance with the relevant provisions of the Trade Union Law of PRC (Trade Union Law, 2001). But in practice, the crew union does not play its proper role and gives poor support to the crew to protect their rights and interests when they are violated. On the other hand, at present there are more and more free seafarers in market economy, which results in social insurance of free crew out of control. Moreover, the regulations of labor unions protection in the Trade Union Law have not yet defined relief way, which make the party of responsibility who has the obligation to pay social insurance premiums try evading the obligations. It is obvious that the crew union of China plays poor effect in the protection of the crew rights and interests, due to the absence of supervision mechanism from seafarer union.

Chapter 4: Countermeasures for the rights and interests protection of China's coastal seafarers

4.1 To accelerate the process of the improvement of the protection system of seafarers' rights and interests

4.1.1 Speed up the approval to join the MLC 2006

The adoption of MLC 2006 is an important strategic symbol in the decent work agenda of the ILO, which is enforced. As a big shipping country, China shall get ready of legislation, system and mechanism to approve to join the MLC 2006 as soon as possible. Chinese government shall speed up to improve the security system of own seafarers' rights and interests to ensure promote the comprehensive and efficient implementation of the seafarers' rights and interests, which can bring in the benefit for more than 1.5 million seafarers.

4.1.2 Set up a special management and supervision organization of seafarer's labor security

The concept of "competent authority" is expounded in the MLC 2006 which means those ministers, government departments or other authorities of each member state who have power to promulgate regulations, orders or other instruction in the force of law to those matters prescribed in MLC 2006. In terms of the seafarers' labor management and security of rights and interests, the competent authority is Maritime Safety

Administration in Ministry of Transport. But the Maritime Safety Administration and labor social security department have overlapping domains on the function of seafarers' labor management and security of rights and interests, in practice which leads to the formation of the effective mechanism difficult. Therefore, it is extremely necessary that a special institution of seafarers' management and safeguard of rights and interests in China, which belonging to the Maritime Safety Administration of Transport Ministry should be established in accordance with legislation (Wang, 2009). The institution shall be responsible for the implementation of the relief compensation system of seafarer's damage, the regulation of seafarers' welfare, and the supervision of insurance payment from ship Company, ship owner and other related institutions to carry out social insurance of the various seafarers (ILO, 2012). The institution shall be given the power to handle the poor enforcement of seafarer's social security, at the same time, responsible for the complaint acceptance, mediation and administrative rulings of matters related to the seafarer's social security.

4.1.3 Set up public professional intermediaries of seafarer

Ban on selling the labor force of the seafarers as the mode of job introduction for seafarers is prescribed in the legislations of those countries with numerous seafarers. The ILO regulations any individual, enterprise or other organization operating seafarer employment agencies are not commercial, and for a direct or indirect purpose of earning fees from the job introduction for seafarers, which is regulated in specific provisions of the establishment of seafarers' employment agencies convention, ILO 1920. Based on above, China should set up non-commercial public job intermediary of seafarers non-profit for the purpose of the nature of, and establish a normative and orderly market of seafarers' assignments, which is not driven by interests and protects the rights and interests of the seafarers.

4.1.4 Improve the role of the seafarer union

When the legal norms related to the social security of seafarers are made, the responsibilities and authorities of the seafarer union shall be defined in order to make the specific goals clear. At the same time, the role of seafarer union also should be strengthened in the protection of individual rights and interests of the seafarers. The various around seafarer union should innovate in management mechanism, such as regional, centralized management of the crew. In addition, the seafarer union shall set up specialized agencies or departments to pay the social insurance fees on the behalf of the crew and to supervise the implementation of seafarers' social security.

4.1.5 Establish the relief compensation system of seafarer's disaster

According to the blank of seafarers' social relief legislation, China should increase the seafarer's disaster relief compensation system in the future Crew Law. Because there is no legislation guarantees of the losses after crew suffer disaster, it is very unfavorable for the crew. The crew disaster relief compensation system should be established to protect the survival of seafarers who need social relief due to the losses of casualty disasters and in poor. In addition of the specialties of the seafarer's professional, the set compensation standard should be higher than the laborer on the land, in order to make the career of crew more attractive, so that the enthusiasm of seafarer's working is improved (Zhou, 2014).

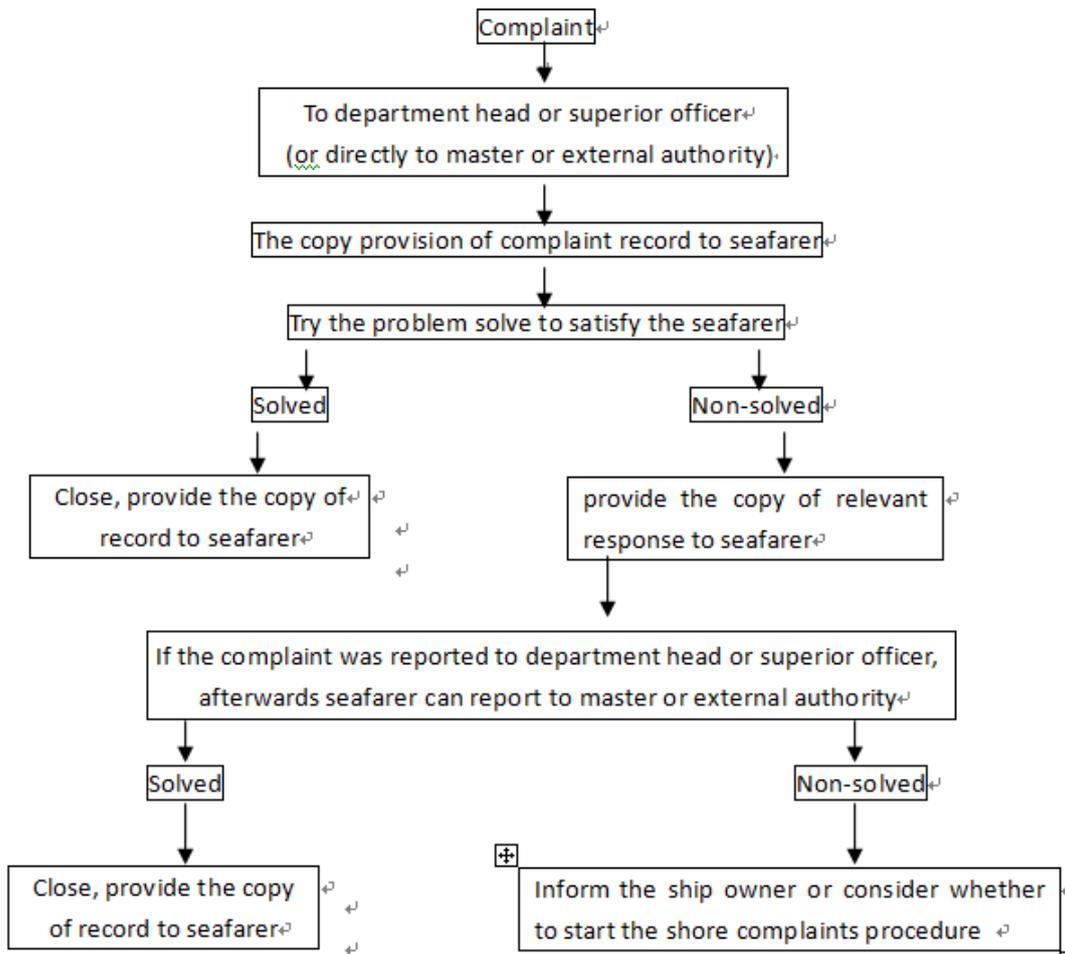


Figure 4-1 the flow chart of complaint settling from seafarer

4.1.6 Improve the service for the crew and the industry organization construction

1) Improve the management of crew service agency

The maritime administration department should speed up the construction of specific industry standard system. Maritime authority should be in accordance with the requirements of the crew service regulations of China, to strengthen the supervision of the qualification crew service agencies, daily operation management, establish the crew complaints mechanism and the quality management system, promote the crew service

integrity management mechanism, coordinate their works of various departments, guide correctly and develop crew service industries.

2) Speed up the construction of seafarers' industry group

To construct the harmonious marine labor relation and promote the healthy development of the shipping, the maritime administrative department should improve the role of industry management, speed up the construction of seafarers' industry group. By establishing a coordination mechanism of relative parties, the rights and interests of the seafarers are safeguarded, to promote a stable market order of seafarers and maintain harmony social.

- One is providing the theory support for the future system introduced to standardize the behavior of industry and policy recommendations from government in the crew market of industry management from a macro level. The basic requirement and important step of the protection of the rights and interests of the crew is to strengthen the management of the crew market.
- The second one is to implement the construction of relevant mechanism. The contradiction between seafarer's and the owner's interests increasingly intensified in the current relatively weak shipping market. To achieve harmonious maritime labor relations, labor relations tripartite mechanism must be built. Only by this way, it can come true to promote the healthy development of the seafarer's group and shipping economic and social stability.
- The third one is to set up the crew management association, realize the self-discipline and management of seafarers industry. Industry group crew management association plays a very important role in coordinating problems arising from the seafarers' team construction, to maintain the healthy development of the industry,

and gradually realize the crew management by a single management of government to industry management combined with government administration.

4.2 Clear the function orientation of related government department during the crew management

Government function is a historical category. As the development of the society changes, the functions of the government will change according to nature, content, means and direction. Therefore, the scope of the functions of the government should adapt and adjust to the change of economic and social environment. The maritime institutions can strengthen the construction of the ability of the crew services from two aspects - optimizing the crew services and protecting the rights and interests of the crew. In detail, one is that the crew examination and certification must be transparent, just, fair and efficient; the second one is to build an online service platform for seafarer's certification, which is convenient for crew to query, deal with certificates; the third one is to provide the service of professional training to former fishermen shift into navigation; the fourth one is to strengthen the management of the crew services to safeguard the rights and interests of seafarers (Ren, 2014).

4.3 Build and maintain new mechanism of seafarer's rights protection, daily supervision and management

4.3.1 To perfect the measure of daily supervision and management of seafarers' rights and interests under existing regime

1) Build new on-site supervision system of crew; strengthen the safeguard of the seafarers' rights and interests

Under the new situation, constructing the regulatory system of the crew at the scene is the important measure to guarantee the rights and interests of seafarers, serve social and economic development. The constructed new crew on-site supervision system should

adapt to the crew management and requirement of seafarers market development, to optimize the distribution of regulatory functions of the seafarers at the scene and stick to the professional activities (Li, 2011). The following several aspects are summarized.

- One is the implement of crew on-site supervision should make full use of maritime on-site law enforcement resources. To fill up the deficiency of crew on-site supervision, maritime authority should strictly control the crew qualification acquirement and the process control management of work performance. By means of science and technology, the crew management should be controlled under the whole process of the closed loop. In addition, the crew on-site supervision efficiency can be improved through the establishment of information sharing of the crew comprehensive business and crew management enforcement linkage mechanism.
- The second aspect is to clear the main content of the crew on site supervision. Crew on-site supervision should include the scenes of the crew training activities, the crew service activities and crew performance of duty onboard. Protection of the rights and interests of the crew is a key point of on-site supervision of crew performance of duty. The main contents of the inspection have on site check of labor contract, dispatch agreement, etc. The process of crew performance of duty can be controlled gradually through these different on-site supervisions to crew.
- The third one is to clear the division of duties of crew on-site supervision. The on site supervision of crew performance of duty should be carried out territorial jurisdiction, to gradually change the past unfavorable situation that crew management is done by the department of examination and certification alone.

2) Promote the protection of seafarers' rights and interest by means of safety management system audit

At present, some experts point out that no effective implementation of protection of the crew's rights and interests is the main reason of the seafarers' poor responsibility, weak legal consciousness, and the lack of professional ethics. The mean of safety management system audit to urge the shipping company to shoulder the main body responsibility of the seafarer's rights and interests safeguard, guarantee their decent work, thereby enhancing the crew's the senses of belonging and responsibility to the company, which has more advantages than other maritime management means. Article 45 the Crew Regulations of China prescribes that maritime authority should focus on strengthening the supervision and inspection of protection of the crew legitimate rights and interests from employers.

On the other hand, the measures of maritime authority in protection of crew's rights and interests have low efficiency. The current maritime administrative department implements the FSC inspection of the ship in accordance with SOLAS convention, the MARPOL convention and the STCW convention adopted by IMO, as well as the relevant domestic laws and regulations formulated from the three conventions. FSC inspection mainly checks the seaworthiness of the vessel, which focuses on the inspection of the ship safety equipment, facilities, all kinds of records and drill sampling when necessary. At the same time it checks the ship equipped with safety equipment, health supplies, medicine, first aid supplies, labor insurance supplies, etc. The FSC inspection guarantee crew to maintain a favorable living and working environment, meet the requirements of the national survey rules, and ensure the crew survival, communal and self-rescue ability. Furthermore, the inspection includes the check of seafarers' certificates, and the examination of the operating capacity of seafarers, to ensure seafarers in different position competent. It is admitted that these inspections are important measures of the safeguard of seafarers' rights and interests.

However, these measures mainly focus on the inspection the ship's "hardware" and the technical standard of the seafarers. Those aspects of "software" like social security are

not involved, such as the labor contract, seafarers' professional attitudes and psychology. The ship inspections from maritime authority are basically responded by seafarers, including all kinds of special inspection and FSC inspection. In addition, the internal security safety management inspection implemented by the company also must be dealt by crew. According to the investigation report, the crew is struggling to cope with the above inspections, which lead to their large working stress, more nervous especially on face of operational skills examination implemented by maritime administration. Furthermore, seafarers' other rights and interests failed to get effective assurance which make they feel anxious. If seafarers are under a state of high pressure for a long time, they will fell tired physically and psychologically, which may be one of root causes why there is a poor sense of professional perception and belonging in seafarer group.

The strong implement of the seafarer's rights and interests' protection will motivate the management responsibilities of seafarers who consciously perform in terms of safety and pollution prevention. Safety management system audit is a favorable measure to promote the protection of seafarer's rights and interests, which mainly promote laws and regulations requirements related to the seafarer's interest security concerning safety and pollution prevention implemented through the company system documents. It is sound to avoid the seafarers' work pressure, urge the shipping companies to shoulder the main body responsibilities of the seafarers' rights and interests safeguard, and enhance seafarers' the sense of belonging and responsibility to the company, finally to ensure seafarers' decent work realize (Yu, 2014).

4.3.2 Construction of maritime labor security supervision mechanism

1) The right legislation of maritime labor supervision to maritime authority

The implementation of labor security supervision onboard is different from on land. It not only needs administrative staff of relevant department to carry out on board, but also understand the basic rules of labor law, relevant knowledge of navigation and ship, etc.

Based on these, for the sake of professionalism and effectiveness of security supervision, the law should clear maritime administration in charge of maritime labor supervision. The MLC 2006 delegates such authority from two aspects respectively. One of them is that each member state shall verify those vessels fly its flag is in line with the national laws and regulations to implement the requirements of this convention through an effective coordination system with regular inspection, supervision and other control measures. The other one is each member state shall supervise ship's safety, diet, and working conditions of requirements of the Convention, and establish an inspector system. During exercising supervision, the maritime officers can ask to correct violations without the exclusion of ship arrested. Implementation of maritime labor supervision mainly includes minimum age, seafarers' employment agreement, etc. For the effective protection of the rights of interests of China's seafarers, maritime administration should improve the supervision ability of the maritime labor to ensure measures taken to strengthen the inspection of the above contents.

2) Formulation of regulations for maritime arbitration of labor dispute mediation

Labor dispute arbitration commission shall be made up with representatives of the labor administrative department, labor union and industry, in accordance with the provision of article 19 "labor dispute mediation arbitration law". This provision is directly reflected in the labor dispute arbitration proceedings, called the tripartite mechanism. However, the form and content yet need further perfection of legislation to effective implementation in the labor dispute arbitration. For example, the tripartite mechanism has big problems in linkage with the provision of Article 12 of labor dispute mediation arbitration law in terms of the representative's composition of the arbitration commission. The arbitrators of the labor dispute arbitration committee prescribed by the arbitration law shall be fair and upright, conform to one of the following conditions:

a. a former judge;

- b. engaged in legal research and teaching with intermediate professional title above;
- c. has the legal knowledge, engaged in human resources management, labor unions or other professional work is more than five years;
- d. a lawyer's practice over three years.

But the tripartite mechanism is not very corresponding to the specified conditions. As a result, the arbitration system of maritime labor dispute mediation is necessary to formulate specific rules and regulations.

3) Improve the processing mechanism of seafarers' labor dispute

The particularity of seafarer's career results into the difficulty of rights safeguard. If there is no specialized institution of seafarer's rights safeguard and mature seafarer labor dispute processing mechanism, the right safeguard is difficult to carry out. Regarding to this, the author suggest setting up specialized institutions of crew rights protection. On one hand, it can take warning and monitoring effect to the ship owners and crew management organization. On the other hand, it can offer help to the seafarers who safeguard rights when their rights are violated. The above-mentioned two aspects also are the requirements the MLC 2006 to each member state.

4.4 Improvement of vessel survey rules of China

According to the work and life space cabin requirements onboard of MLC 2006, the vessel survey rules for the construction should be revised, fully considering the influence of the narrow space to seafarers living comfort, to improve the seafarers' food and catering services standards, further improve the living conditions, increase the seafarers' recreational facilities, solve the problems existing in the hardware of the ship (Yu, 2008).



Figure 4-2 The living and food condition of seafarer

4.5 Efforts to enhance the seafarer's quality

4.5.1 Relevant education of laws and regulations

Seafarers with high quality not only should have excellent navigation skills and knowledge, also should have a reasonable legal knowledge and right-protection

awareness. This is the fundamental to deal with many affairs concerning seafarers. The legal knowledge structure of seafarers should include basic knowledge of law and laws and regulations related to navigation business, as well as the laws, regulations, and policies of rights and interests security of seafarers. If the seafarers have good legal consciousness, then they will be able to put everything of work and life in the framework of laws, regulations and policies, and deal with them in a harmonious order, which is beneficial to the seafarers, vessel navigation safety and social stability. As a result, the legal consciousness education of seafarers is particularly important. To realize this, the training education should be carried out from the following two aspects: one is to set up legal basic education course in the navigation colleges, universities and training institutions as soon as possible. The other one is the law consciousness education of the seafarers cannot be one-stop, should pay attention to long-term and constantly update education, cooperation education of colleges and universities, training institutions, industries and the competent authority.

4.5.2 The awareness cultivation of rights and obligations and ability education of safeguarding rights

Nowadays, along with the development of social economy, citizens get more rights. But as a whole, citizens have still not played enough attention to the right, resulting into weak citizen's right consciousness without enhancement for a long time. Only improvement of citizen's right consciousness is beneficial to the progress of countries and improvement of social civilization degree. It can be said that only more and more people realize the importance of individual rights, and even take legal weapon to protect their rights and interests, social inequities will reduce gradually and the society will become more and more advanced. Therefore, civil rights consciousness education becomes very important. Today, when we are going to talk about the maintenance of seafarer's rights, it is very necessary to take seafarer's education of rights.

To enhance consciousness of seafarer's rights and obligations, the following attentions should be paid.

- The gradually raised level of cultural education forms a good culture foundation for the seafarer's rights consciousness education.
- Further improve the regime of shipping market economy to lay the foundation of material and concept for crew rights consciousness education.
- Set up the political regime corresponding to the shipping market economy requirement, prompting the government to establish a matching fair, open, transparent, free and compatible political system and administrative environment, which is helpful to realize political civilization.
- The government must strengthen the human rights and the rule of law consciousness.

In recent years, a large number of seafarer right safeguard events happened in China, some of them have caused considerable social influence, also has carried on the vivid and profound rights education to the seafarers. As a result, the seafarers must treat human rights case as a case study, they must have a high level of consciousness, dare to take a legal weapon, fully rely on a variety of positive social resources, tirelessly fight against the infringement. In the process of legal rights safeguard, the seafarer also need learn expression, negotiation and game skills, improve ability of self-safeguard rights and the level of social public welfare and social progress through rights safeguard measures. If the crew themselves lack the necessary skills and ability to safeguarding rights, even if can get some help from the outside, finally it is also difficult to have a satisfactory achievement.

4.5.3 The mental health education to seafarer

The particularity and difficulty of seafarer's profession has a huge impact on the psychological development of such special group. One of the most important factors whether maritime Labor can complete is that the seafarers themselves have positive psychological quality. Without it, the cohesion between the seafarers will be able to get enhanced to overcome dangerous working conditions; the sea accidents will not be reduced; the safety at sea will not be able to ensure. The seafarers' negative psychological characteristics include: homesick and loneliness, professional inferiority complex and emotional ups and downs, slow emergency response. To deal with this, guide and training education should be done from the following several aspects.

- One is to strengthen ideological and moral education, pay attention to the psychological quality training. Based on this, it is necessary of the seafarer to take effective measures of psychological health education.
- The second one is to establish a regular seafarer's mental health files and the mechanism of psychological consultation and health, psychological counseling and psychotherapy work should be actively carried out to on-the-job seafarers, which not only improves the mental health status, but also cultivate seafarer's necessary vocational professional psychological quality.
- The third is the rigidity of the interpersonal relationship of seafarers, which asks the social from all walks of life to give help. So the interpersonal communication training of seafarer should get emphasized to cultivate their collective views.
- The forth one is a special sea life and working environment and risk, which is much more difficult than on land. So the guidance for seafarers' environmental adaptation should be strengthened, to cultivate their strong willpower of life, cultivate them to subjectively take positive attitude, mediate the contradiction between environment and their own, problems caused by sea life can be solved.

The psychological quality of seafarers directly affects their behaviors and these behaviors directly relate to the safety of shipping. Therefore, mental health education is particularly important. The training education, business management, government and society should together protect the psychological health of the seafarers.

4.5.4 Improve navigation education at all levels

At present, the navigation colleges, universities and training institutions treat the seafarer's examination and obtain the certificates as the ultimate goal of education, so the task of navigation education is to adapt to the need of the scale development of the ship in China. The lack of humanistic care education and training education which leads the development of seafarer's career planning is one of the internal causes of seafarers' instability in China. The task of education is perfect personality. If the seafarers only learn professional knowledge and working skills, but lack the identity to seafarer's profession, they will work in a temporary state without the responsibility; the loss of seafarers is an inevitable trend. Therefore, maritime colleges and training institutions at all levels should adjust the direction of education, to cultivate professional crew, besides of teaching professional knowledge, work skill, ensure them have good professional spirit, professional quality, set up the course system of career development of seafarers, to make navigation education return to education root, enhance the quality of seafarers, maritime education in China play its proper role in the "decent labor of seafarer" advocated in the world.

Chapter 5: Conclusion

70% of the total cargo volume of international trade is transported by shipping. As the former general secretary of IMO said, "Without the contribution of seafarers, half the people on the world may suffer cold, the other half will starve". Seafarers make great contribution to human life. China is one of the cradles of nautical civilization around the world. The great navigator Zheng He led a large fleet of seven expeditions to the west, so that the Maritime Silk Road opened. Chinese seafarers erected a monument on the human calendar of navigation. Since the founding of new China, especially since the reform and opening up, China's shipping industry has developed rapidly. China's port throughput and the number of seafarers are largest in the world for a long time. Along with the implement of the MLC 2006, the International seafarers' rights and interests protection in China is in line with the International standards, but the seafarers' rights and interests protection of domestic seafarers of China, there is a big gap with the Convention requirement.

- In recent years, the wage arrears and withhold of domestic coastal seafarers are frequent. The individual income tax imposed to seafarers is inconsistent with the MLC 2006.
- The paid leave prescribed by the Convention is almost impossible to achieve in the domestic coastal seafarers of China.

- There is not domestic legislation of seafarer's repatriation conditions and repatriation expenses in China,, seafarers repatriation can not be guaranteed under the MLC 2006.
- Crew living condition is worse than the requirements of the Convention, the recreational facilities are hardly available, which can not meet the recreation demand of seafarers.
- The rights and interests protection of medical care, welfare and social security onboard and on shore lack supervision and enforcement mechanism. It is lack of health care and seafarers' welfare facilities in most of domestic remote ports.

A simply analysis is taken to the causes of above noncompliance in protection on rights and interests of China's domestic coastal seafarers. Afterwards, some countermeasures are suggested to stakeholders to ensure domestic coastal seafarers achieve the requirement of "decent work".

- The legislation of seafarers shall be built in terms of rights and interests protection, such as employment agreement, minimum wage standard, seafarer's complaint, etc.
- The government shall establish a special seafarer's labor security management and supervision organization, set up a unified national labor market of seafarers which provides intermediary services with information of employment opportunities to seafarers.
- The ship owner shall consider the life and work space onboard, revise the standard of vessel design and construction according to the relevant Conventions, improve the food and catering services to seafarers, further improve the living conditions, increase the their recreational facilities and perfect the management system documents.

- The maritime administration shall reinforce the supervision of the seafarer recruitment and placement agencies and strictly punish those offenders.
- The role of the Seafarer Union of China shall be effectively played. The union shall be the representative of seafarers on behalf of rights and interests protection, take part in the negotiation of seafarer's wage standard, establish a standardized contract of employment, etc.
- The competent authority shall build a system of regular training for all seafarers, to strengthen the career planning and guidance to seafarers, including professional knowledge update, professional ethics, the rights and obligations, the seafarer's mental health education. etc.
- The whole society shall care for seafarers, respect and understand them. Seafarers shall be rewarded with some favorable treatments and privilege, such as the exemption of individual income tax.

Reference:

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APPENDIX: 1
Questionnaire created for on field interview

The status quo of rights and interests of seafarers serving on China's coastal vessels

This interview data is purely for my academic purpose and not for any commercial purpose. This interview shall be an integral part of the Master degree research work at World Maritime University and will be referred to in the final report.

1. What duty do you assume onboard and whether has signed the employment agreement with ship owner?

2. Are you long-term employee of Ship Company or sing-term? What training have you receive from Ship Company?

3. Are there any leaves with payment? Please illustrate the social security situation you obtain from Ship Company.

4. What are your work and rest hours? Is there your own exclusively bedroom? What is your living room area?

5. How much is your wage and whether is the wage payoff on time? Whether do you feel satisfied to your wage income?

6. Who has a medical certificate on board? are medical care facilities and regular medicine available?

7. Do you understand the complaint channel onboard and shore procedure? Is the response to the complaint on time if it exists?

8. Whether do you cherish your job and have a sense of work identity? What are your suggestions of seafarer's decent work?