Seafarers’ recruitment practice in the United Republic of Tanzania: Zanzibar as a case study

Yahya A.O. Albahsan

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SEAFARERS’ RECRUITMENT PRACTICE IN THE UNITED REPUBLIC OF TANZANIA: ZANZIBAR AS A CASE STUDY

by

YAHYA A OMAR
ZANZIBAR, URT

A dissertation submitted to the World Maritime University in partial fulfilment of the requirement for the award of the degree of

MASTER OF SCIENCE
in
MARITIME AFFAIRS
(MARITIME LAW & POLICY)

2019
Declaration

I certify that all the material in this dissertation 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 dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature):
(Date): 2019/09/24

Supervised by: Dr. Maximo Q. Mejia Jr.

Supervisor’s affiliation: MLP
Acknowledgements

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I cannot mention every individual here who in one way or another have contributed in deliberating to my dissertation due to limited space, but it's just enough to say thank you all my fellow students, friends and Samaritans and be kind to forgive me for not mentioning one after the other. At this moment, I want you to understand that I appreciate your valuable contributions.
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Abstract

Title of Dissertation: Seafarers’ recruitment practice in the UR of Tanzania: Zanzibar as a case study

Degree: Master of Science

This dissertation is a study of how national maritime instruments address and enforce seafarers’ recruitment services in Zanzibar. Seafarers’ recruitment in Zanzibar is affected by the weakness of national legal instruments and a lack of enforcement mechanisms that to a large extent impede the protection of seafarers’ rights and welfare. These provide the opportunity to dishonest shipowners to abandon the compliance of national legal instruments and the Convention as well. Therefore, the promotion of seafarers’ employment and the development of the seafaring industry in the country remains far from successful due to the challenges facing the industry specifically in the recruitment process. Some of these challenges include poor national maritime instruments, absence of enforcement types of machinery, lack of recruitment policies, poor terms of employment, poor seafarers’ entitlements such as compensation and social security protection, just to mention a few. To achieve this, national legal instruments and relevant documents concerning the recruitment of seafarers have been analysed. The analysis then compared with the best practice countries in the area of study for future improvement. The findings and recommendations of this dissertation, if adopted by the government, will help to improve seafarers’ recruitment processes in Zanzibar. Similarly, it will help the country to comply and enforce the maritime labour convention for better practices.

Keywords: Seafarer, recruitment of seafarer, process and practice, seafarers’ rights, welfare, promotion, protection and development of seafarers.
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<tbody>
<tr>
<td>BIMCO</td>
<td>Baltic and International maritime Council</td>
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<tr>
<td>CBA</td>
<td>Collective Bargaining Agreement</td>
</tr>
<tr>
<td>CoC</td>
<td>Certificate of Competence</td>
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<tr>
<td>DG</td>
<td>Director General</td>
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<td>DMI</td>
<td>Dar es Salaam Maritime Institute</td>
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<tr>
<td>DMSS</td>
<td>Directorate of Maritime Safety and Security</td>
</tr>
<tr>
<td>DOLE</td>
<td>Department of Labour and Employment of Philippines</td>
</tr>
<tr>
<td>DRC</td>
<td>Directorate of Registration and Crewing</td>
</tr>
<tr>
<td>FoC</td>
<td>Flag of Convenience</td>
</tr>
<tr>
<td>GoZ</td>
<td>Government of Zanzibar</td>
</tr>
<tr>
<td>IBF</td>
<td>International Bargaining Forum</td>
</tr>
<tr>
<td>ICT</td>
<td>Information, Communication and Technology</td>
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<tr>
<td>ICS</td>
<td>International Chamber of Shipping</td>
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<td>ILC</td>
<td>International Labour Conference</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>ILO-FAIR</td>
<td>ILO Fair Recruitment Initiative</td>
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<tr>
<td>IMEC</td>
<td>International Maritime Employers’ Council</td>
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<td>IMO</td>
<td>International Maritime Organization</td>
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<td>ISC</td>
<td>International Seafarers’ Centre</td>
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<td>ITF</td>
<td>International Transport workers’ Federation</td>
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<tr>
<td>JNG</td>
<td>Joint Negotiation Group</td>
</tr>
<tr>
<td>MARAD</td>
<td>Maritime Administration</td>
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<tr>
<td>MASS</td>
<td>Maritime Autonomous Surface Ships</td>
</tr>
<tr>
<td>MET</td>
<td>Maritime Education and Training</td>
</tr>
<tr>
<td>MTA</td>
<td>Zanzibar Maritime Transport Act</td>
</tr>
<tr>
<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
</tr>
<tr>
<td>OR system</td>
<td>Open Registry system for ships</td>
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<tr>
<td>POEA</td>
<td>Philippines Overseas Employment Administration</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<td>----------</td>
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<tr>
<td>ROs</td>
<td>Recognized Organizations</td>
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<tr>
<td>RPS</td>
<td>Recruitment and Placement of Seafarers</td>
</tr>
<tr>
<td>SACMECQ</td>
<td>Southern and Eastern Africa Consortium for Monitoring Education Quality</td>
</tr>
<tr>
<td>SATAWU</td>
<td>South African Transport and Allied Workers’ Union</td>
</tr>
<tr>
<td>SEA</td>
<td>Seafarers’ Employment Agreement</td>
</tr>
<tr>
<td>SIRC</td>
<td>Seafarers International Research Centre</td>
</tr>
<tr>
<td>SOLAS</td>
<td>International Convention for the Safety of Life at Sea</td>
</tr>
<tr>
<td>STCW</td>
<td>Standard Training Certification and Watchkeeping</td>
</tr>
<tr>
<td>SUMATRA</td>
<td>Surface and Marine Transport Regulatory Authority</td>
</tr>
<tr>
<td>TASAC</td>
<td>Tanzania Shipping Agencies Corporation</td>
</tr>
<tr>
<td>TCC</td>
<td>Total Crew Cost</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>URT</td>
<td>United Republic of Tanzania</td>
</tr>
<tr>
<td>WMU</td>
<td>World Maritime University</td>
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<tr>
<td>ZASU</td>
<td>Zanzibar Seafarers’ Union</td>
</tr>
<tr>
<td>ZATUC</td>
<td>Zanzibar Trade Union Congress</td>
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<tr>
<td>ZMA</td>
<td>Zanzibar Maritime Authority</td>
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Chapter 1: Introduction

1.1 Brief view of Zanzibar

Zanzibar is an archipelagic state situated along the Indian Ocean off the east African coast between latitudes 5°40' and 6°30' South and longitudes 39°31' and 39°50' East (Bennett, N. R. 2016). See also Fig 1. According to Zanzibar Maritime Authority (ZMA), Zanzibar has joined the United Nations as an independent member state immediately after independence in 1963. However, a few years later, Tanganyika and Zanzibar became semi-autonomous part of the United Republic of Tanzania (URT) in 1964. The newly formed union, allowed Zanzibar independent to run its structural and developmental programs (SACMEQ, 2019).

In 2002, Zanzibar was estimated to have 981,754 people with a growth rate of 3.1% per annum and an economy truly dependents on agriculture and tourism (SACMEQ, 2019). Being an island state of URT makes Zanzibar spearhead her maritime affairs almost independently from that of the republic. The United Republic of Tanzania is a contracting party to an IMO instrument with a unique ratification system that is peculiar to the mandates of the two administration. For instance, ZMA is one of the two maritime administrations saddled with the responsibility for regulating, monitoring and coordinating all maritime activities and related marine safety and environmental matters in Zanzibar (Figure 2.)

Zanzibar has to enact effective maritime legislation to achieve the country's economic development with consideration of the observance of the safety of life at sea and the importance of protecting and conserving the marine environment against acts such as pollution and illegal exploration of resources. The mere existence of legislations however, good they might be is not enough without the proper implementation of them, which can be carried out through an effective administration supervised by the government of a particular state itself. Therefore, a particular government of any maritime country needs to have a well-organized “maritime administration” in order
to be properly advised on the adoption and implementation of the national maritime legislation and other related regulations for developing and managing the country’s maritime programs and for discharging the obligations of the government under international maritime conventions. The administration is expected to cover the effective recruitment of seafarers.

Figure 1: The location of Zanzibar; adopted from Google map

1.2 Background of the study

The shipping industry is an important pillar of the global economy on which 90% of all global goods transported by ships (UNCTAD, 2018) and requires seafarers to operate the ships. These ships are manned by over 1.6 million seafarers globally (ILO, 2019). It is the undeniable fact that seafarers play a critical role in the development of the shipping industry and the progress of the world economy at large and it is highlighted that maritime transport is an international sector requiring seafarers’ services. In protecting seafarers and their contribution to global trade, the ILO has adopted more than 70 instruments (41 conventions and related recommendations) at special maritime sessions of the International Labour Conference (ILC).

The ILO however, has established the minimum conditions for decent work that sets out the minimum requirements for recruitment on a ship. These include minimum age, medical fitness and training, conditions of recruitment provisions like hours of work and hours of rest, accommodation, food and catering, wages, occupational safety and health protection, leave, repatriation, recreational facilities, welfare and social security
protection. Similarly, seafarers’ pension has established to support seafarers who completed sea service in prescribed period of time.

Seafaring is both a profession and means of contributing meaningfully to society and means of livelihood (Nautilus, 2010; Drewry 2014). However, despite the significance of seafarers, access to the industry is rather tedious and neglected due to weak recruitment systems that favor vulnerable seafarers to the advantage of ship-owners (Shipowners’ Club, 2019).

The demand of seafarers in the global fleets is estimated at 1,545,000 on which 790,500 were officers and 754,500 ratings (ICS, 2018). Accordingly, the supply of seafarers stood at 1,647,500 consisting of 774,000 officers and 873,500 ratings (ICS, 2018). This indicates an oversupply of 102,500 seafarers especially ratings. However, Chinese, Philippines, Russian, Indonesian, Indian, and Ukrainian mostly dominate the nationalities of the seafarers in the global fleets. China and Philippines dominated the industry in the provision of seafarers in the international labour market whereby the Philippines is heavily influenced by the demand of seafarers in its national and global fleets, and the existing labour market conditions (Wagtmann, M.A., & Poulsen, R.T. 2009). However, the industry is projected to experience a shortage of seafarers globally and that has become a major concern in the global labour market (ILO, 2016).

The seafaring profession has transformed to become the most globalized industry. Ships travel across international borders and manned by seafarers of diverse nationalities. In addition, seafaring has emerged not just as a profession, but a way of living on board ship. Seafarer recruitment is relatively common in the shipping industry. Therefore, the Maritime Labour Convention requires flag states to supervise and approve manning agencies established within their territorial jurisdiction in order to prevent seafarers against dishonest employers. According to the Convention, ship-owners require to use only approved seafarers’ recruitment services operated in the respective countries. However, recruitment services operated by individuals or a
shipowner him/herself also requires a license issued by the national competent authority.

Principally, maritime policies in Zanzibar are controlled by the state administration seeking the compliance by the companies in order to ensure human rights for all employees. These policies are designed to bring about a certain professionalism and high standard to any company. In accordance with this, employees have many rights that can be implemented to protect their job and their position. Every branch of the Maritime sector needs to be at a high standard, due to the competitive nature it inhabits. Working with a team of trained and experienced human health experts that are sensitive to environmental values should not be compromised. In today's competitive world, it will be more difficult to satisfy the need for organizations that is for people and people for organizations. Human resources can create a competitive advantage for companies and with the use of effective recruitment practices companies' performance can get influenced. In this study, recruitment practices are intended to be identified in shipping companies. The maritime recruitment structure has to work in parallel with emerging technology.

Seafaring in Zanzibar has a special pattern as working and living conditions are combined in a restricted (closed) area. A seafarer's long separation from family and friends, long-stay onboard, and isolation makes welfare facilities necessary during recruitment. Companies should be aware of their responsibilities in the maritime industry, where safety and environmental protection issues must declare their commitment right from the point of recruitment. Therefore, this dissertation aims to analyze the legal order relating to the recruitment of seafarers in Zanzibar pursuant to the relevant provision of MLC, 2006 and other relevant legal documents. Thus, the study will critically examine national maritime regimes with respect to seafarers’ recruitment process and collective bargaining agreement as indicating tools to seafarers’ rights and welfare towards a secure, clean and decent working and living conditions onboard ships.
1.3 Problem statement

The life of a seafarer at sea involves many difficulties including harsh sea tidal waves, loneliness of being far from the family, living in a small room sometime with inadequate air supply and a low quality of food to mention a few. Seafarers experience mental abuses due to isolation, lack of amenities for social interaction and cultural insensitivity. Similarly, lack or delay of seafarers’ wages or other mandatory entitlements to send their families and even abandonment are additional abuses that to large extent contributes to the suffering of seafarers. Most major ports across the world in one way or another have hosted abandoned ships and their crews on board ships. The crews can stay on board ship for several months with neither pay nor repatriation. Unless seafarers get support from Unions or established mission to seafarers or other Samaritans from respective countries, they frequently lack the ability or means to seek compensation through non-friendly systems of flag States. Seafarers to end up dependent on charity for their survival seems to be normal in recent times due to the increasing abandonment cases. Usually, seafarers’ employment is subject to flag state jurisdiction as a primary contact by seafarers, but always subject to different jurisdictions (IMO 2015). Therefore, seafarers are likely to experience problems to attain their legal and contractual rights, and sometimes get difficulties to support their respective families.

The recent maritime legislation of Zanzibar concerning the recruitment of seafarers is aligned with the resolution of the international safety conventions of the ILC, which note that there was a projected shortage of suitably qualified seafarers. This was fundamental to the sustainable operation of the maritime sector that it be able to continue to attract new entrants and establish proper career paths for officers (ILO, 2001). The ILC’s resolution acknowledged the industrial change occurring in “traditional” maritime countries that were leading to a substantial loss of their maritime skills base. It considered the need to improve the conditions of work and opportunities for seafarers, and that the global market for employment of seafarers was a complex issue, incorporating political, social and economic aspects. Therefore, it
considered the need for the governments to develop and implement effective policies in respect to the convention. The resolution invited the Director-General through consultation of Governing Body to convene a tripartite meeting comprising experts to scrutinize the matters and suggest proper policy recommendations to ensure proper recruitment processes.

Even though, Zanzibar as a maritime country that has a growing number of young people who are eager to join the maritime industry. So far, there are limited opportunities for them to work onboard ships despite many of them graduate from maritime institutions. However, Zanzibar seafarers have faced many problems concerning recruitment for the work on board ship, simply because for many years the country did not ratify the convention. Therefore, it was not a surprise to discover the lack of strategic measures to enforce the convention. Despite the recruitment of seafarers being a major challenge to Zanzibar, there is a limited number of studies in the area existing in the country.

1.4 Purpose of the study

The purpose of this dissertation is to evaluate the seafarers’ recruitment system of Zanzibar on whether the existing system influences the promotion of seafarers’ employment in the global labour market and/or protect seafarers’ rights as well as the development of seafarers in the general perspective. This dissertation seeks to achieve the following specific objectives:

1. Analyze the Zanzibar maritime instruments and the effectiveness of enforcement mechanisms related to recruitment of seafarers;
2. Evaluate the recruitment process and the role of a recruitment agency in promoting and protecting seafarers’ rights under the employment agreement;
3. Evaluate the types of employment agreement involved in a seafarers’ employment;
4. Evaluate the validity and enforceability of terms under the employment agreement;
5. Assess the challenges of recruitment system of Zanzibar and the role of flag states in realizing minimum labour standards;

6. Assess the role of the ZMA in safeguarding seafarers’ career and skill development;

7. To explore the factors that influenced the gap observed in seafarers ‘recruitment practices;

8. To examine issues within the seafarer work experience that underpinned the identified gap.

1.5 Significance of the study

It is clear that seafarers play a key role in global economic development. Therefore, their contribution to the development of their families and countries both socially and economically is undisputable. Unfortunately, the sector has not been given much importance. However, the deficit of data concerning the recruitment of seafarers remains a challenge. Therefore, the following are the implication of this dissertation:-

1. The findings will help to understand the factors affecting the national seafarers’ recruitment sector and the current weaknesses of national maritime instruments related to recruitment of seafarers;

2. The findings from this project will enlighten the government, policymakers, stakeholders in the maritime sector, seafarers and the general public on the seafarer’s recruitment processes;

3. The findings will help to create awareness for seafarers on their rights. Hence, support their Union in protecting their rights and welfare through collective bargaining agreements;

4. The findings from this study will constitute a basis for future research and also contribute to the body of knowledge since it will be used as empirical literature in subsequent studies;
5. The outcome of this study will also be a guide for policy formulation both at the state and national level that will improve the recruitment process of seafarers;

6. The outcome of this study will also contribute to the adopting of solid legal instruments, enforcement mechanisms, and monitoring and/or audit system for the recruitment of seafarers of Zanzibar in respect to the MLC 2006 Convention for the better implementation.
Chapter 2: Literature review & research methods

2.1 Literature review

The literature review aims to survey the range of research and publications relevant to the topic of this dissertation. In other words, it aims to provide evidence on whether the current seafarers’ recruitment mechanisms and frameworks of Tanzania, specifically Zanzibar, could facilitate the promotion and development of Zanzibar seafarers.

The concept of recruitment of seafarers covered under the MLC, 2006 in regulation 1.4 of the Title 1 on which the main purpose was to ensure seafarers have access to a well-regulated and efficient system of recruitment. The MLC, 2006 serves as an international regulatory instrument that regulates the minimum standards for seafarers aimed to provide an equal playing field for global shipowners and seeks to assist countries to comply with the obligations thereof (McConnell, M., Devlin, D., & Doumbia-Henry, C. 2011). Meanwhile, the convention provides the opportunities to all maritime stakeholders to implement the provisions set forth, a high level of involvement in decision making both public and private institutions. For example, the convention sets out mandatory provisions requiring members to involve seafarers’ trade unions and shipowners’ organizations in the discussion and consultations concerning all related maritime matters.

Besides, the established and effective operations of the Joint working group and the Joint Maritime commission which involves shipowners’ and seafarers’ representatives in the decision making process under the facilitation of IMO/ILO are among the examples, although the recruitment of seafarers was complex as it contained different aspects such as economic, social and political motives (Sampson, H., & Ellis, N. 2019). To attain the purpose of recruitment as set out by the MLC, 2006, the countries had the responsibility to put in place the effective local maritime legal instruments and
enforcement mechanisms to regulate and control the seafarers’ recruitment activities in their national jurisdictions (Basurko, O. F. 2016).

The concept of seafarers’ recruitment was not new. It dates back since early 1900s on which its poor reputation was known for many decades. For example, in 1921, India attempted to reform its recruiting system for seafarers because the ship owners and crewing agencies at that time took advantage to abuse seafarers (Argiroffo, E. 1967). According to Argiroffo, E. (1967), this was among the reasons that resulted in reviewing the system to ensure that seafarers are treated the same as other human beings, thus reducing malpractice in the recruitment process. According to recruitment and the placement of the Seafarers Convention, 1996, the recruitment and placement service was described as;

“any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers.”

The recruitment of seafarers was associated with the employment of a person to work onboard a ship. Principally, the recruitment of seafarers is not an employment agreement; it is the process of associates with employment. Further, the Convention sets out minimum standards on the conditions of employment for the work onboard a ship. According to Regulation 1.4 of the MLC 2006, public maritime institutions, private organizations and/or seafarers’ trade unions can operate the recruitment process. Although, Standard A1.4 (3) (c) of the convention provides the mandate of a state to regulate the recruitment activities in their countries to develop national laws or regulations or other measures concerning international legal frameworks such as MLC 2006, the aim was to ensure that seafarers have access to an efficient and well-regulated employment system.

Scholars such as Vučur, G., Miloslavić, I., & Bošnjak, M. (2016) argued that the quality of recruitment in the maritime sector depends on different factors such as
education, satisfaction, communication, motivation, promotion, rewarding, managing, and decision-making. However, articles and documentation revealed that many claims raised by seafarers associated with the promotion and development that are the obstacles towards seafarers’ rights and interests. The challenges discussed by the previous researchers include those related to the national regulatory system, shipowners and/or crewing agencies and even onboard ship the vessels. Caesar, L. D., Cahoon, S., & Fei, J. (2015) believed that the weakness of national legal instruments related to the recruitment and placement of seafarers were obstacles not only for the promotion and development of seafarers but also the protection of seafarers’ rights and welfare.

The same study also revealed that the private crewing agencies demonstrated to operate under the worst practices. To a large extent, this argument supported by Zhao, M., & Amante, M. S. (2005) pointed out that seafarers suffered brutal treatment and exploitation under the hands of recruitment agencies. On the other hand, the study conducted by Wu, B., Shen, G., & Li, L., (2007) demonstrated that many private agencies that recruit seafarers were imposed restrictions on seafarers’ career development.

Further, seafarers’ living and working conditions have been a major concern to researchers, the international community and other maritime stakeholders (Progoulaki, M., Katradi, A., & Theotokas, I. 2013). However, unlike other professions, seafaring is the most dangerous job that possesses negative consequences to seafarers despite the nature of their working and living environment separates them from their own homes and families (Nautilus 2010a). Some authors such as Mitroussi, K., & Notteboom, T. (2015) tried to mention the aforementioned dangers faced by seafarers while onboard ships include, among other things the psychological stress, adverse weather conditions, piracy, fatigue, long hours of work, perils at sea, irregular meal, use of heavy equipment, and the inescapability of environment.
Despite the dangers, seafarers remained the victims when serving their responsibilities onboard ships. The authors indicated that seafarers have been victimized on their contractual employment. Most cases indicated including unfair terms of employment, salary areas, insufficient shore leave, lack of pension contributions from employers, abandonment and the lack of legal representations at the time of suspect to criminal charges in a foreign country, to mention a few (Caesar, L. D., Cahoon, S., & Fei, J. 2015; Sampson, H., et al. 2018; Drewry 2014; ILO 2019). (See Appendix 3). A recent report published by Seafarers Happiness Index & Shipowners’ Club (2019) demonstrated that bad shipowners have a great contribution to seafarers’ risks at sea. This problem was contributed by the lack of a genuine link between the shipowners and seafarers due to the involvement of crewing agencies in the employment of seafarers (Caesar, L. D., Cahoon, S., & Fei, J. 2015).

While the study in Drewry (2014) suggested the improvement of operational quality in a way to minimize the risks related to sea-based jobs, Adela, A. A. (2017) proposed that the national regulatory system should put in place a mechanism for monitoring the recruitment activities as the solution for the protection of seafarers’ rights. Couper, A. (2000) also argued that the success towards accountability for seafarers abuse and abandonment relied on the harmonization of enforcement mechanism and the industrial global economic structure. According to David Moreby (1975), seafaring goes beyond employment because of their work and living based onboard ships the vessels for several months of their employment. During this time of their contractual employment, seafarers experienced lots of troubles and frustrations. Unfortunately, many shipowners, like other employers, do not appreciate the seafarers’ efforts and tolerance while fulfilling their responsibilities onboard ships; instead, they try to find a way to exploit them preferably through cheap labour (Wang, Y., & Yeo, G. T. 2016).

The researchers have offered a different opinion concerning the tendency of shipowners to recruit cheap labour to work onboard the ships. Wu, B., & Winchester, N. (2005); Romelczyk, E., & Becker, A. (2016); Mitroussi, K. (2008) provided the
reason for the shipowners to prefer cheap labour as the ability for a country to supply qualified and well-trained seafarers. Other researchers such as Tsamourgelis, I. (2009); Lobrigo, E., & Pawlik, T. (2015) offered a divergent perspective based on legal constraints from labour supplying countries. On the other hand, Schröder-Hinrichs, J. U., et al. (2018) through their recent study found that the emergence of autonomous surface ships (MASS) requires seafarers having new skills and competencies to enable them to work for the modern technological ships both onboard and ashore. Automation is not a new phenomenon; it has been used for many years ago in various areas of work including the maritime sector and mostly for onshore daily work.

Although, modern autonomous ships came as a surprise and very fast since it requires long-term investment and the more advanced system as well as widespread awareness for the working ability, skills and ad hoc decision-making. The study conducted by Skrzeszewska, K. (2015) showed that there was limited information related to the opportunities for education and training for sea-based jobs. This means that many seafarers lack information and awareness not only those based on technology but also the changes pertaining to the work of seafarers on board ships, a thing that may contribute to the unfulfilling of qualifications to employed or re-employed crew members onboard ships.

However, as far as the academia and researchers have discussed from the above-mentioned undertaken studies in the recruitment of seafarers, many of them agree about the shortage of seafarers and the challenges associated with the seafarers’ recruitment process and their employment in general. The most common challenges concerning the recruitment of seafarers illustrated in many literatures include poor recruitment practice, seafarers’ employment agreement, poor legal instruments and enforcement mechanisms, insufficient mechanism for the seafarers’ skill development, lack of legal representation in the event of seafarer suspected for criminal charge in a foreign country and the protection of seafarers right’s and welfare.
This dissertation exemplifies that legal frameworks, the enforcement, and close and/or frequent monitoring the seafarers’ recruitment services could control fraudulent employers, which in turn could result in the promotion of seafarers’ employment, as well as the protection of seafarers’ rights and welfare, for the sake of good recruitment practices.

Despite the absence of studies conducted in respect to the recruitment of seafarers in the country, the reviewed literature brings back to the question; how are seafarers’ recruitment practices ensured under the national legal instruments and enforcement mechanism? Meanwhile, an evaluation of national legal instruments and enforcement mechanisms related to recruitment of seafarers is essential to furthering the transformation of the industry

2.2 Research methods

In order to achieve the objectives of this dissertation the author employed a comparative legal doctrinal and non-doctrinal based research in the course of conducting this work, although multi-disciplinary approach may be used. The methods used was based on the analysis and the building of various primary sources. Throughout the study, the general review has been conducted to various literatures relevant to study that involves national legislations, international conventions, relevant constitutions textbooks, work reports and other relevant works. Frankly, many materials were obtained through internet sources and various libraries existing in Zanzibar. In addition, to explore both MLC 2006 and national legislations concerning the recruitment of seafarers, three countries namely the Philippines, India and South Africa were selected as comparative studies based on their experiences on supplying seafarers in the international ship crew market.
Chapter 3: Seafarers recruitment and administration in the Zanzibar context

3.1 Introduction

Seafarers play a significant role for their country’s economic development by sending foreign currencies to their home as well as through contributions such as social security benefits. Like other countries, Zanzibar as an island benefits from the employment of its seafarers. Under its legal mandate, Zanzibar operates maritime affairs across its jurisdiction. According to ZMA, the Authority was established in 2009 having a full mandate to discharge flag state and port state responsibilities in respect to international maritime framework aims to regulate the industry and in the realization of good practices. Therefore, ZMA has the legal mandate to regulate, coordinate and monitor maritime affairs across Zanzibar territories.

Besides, ZMA promotes recruitment practices that protect, respect, and fulfill international labour standards and globally recognize human rights (ILO, 2016). In 2006, Zanzibar enacted the Maritime Transport Act (MTA), to regulate maritime affairs in Zanzibar followed by regulations, strategies and other maritime instruments. Although the mandate to ratify the international Conventions are vested under the government of URT, Zanzibar separately implements them upon the ratification of the government of URT.

Recently, Zanzibar has developed and/or amended more than 28 regulations to ensure compliance with the MLC 2006. Among these regulations are included the seafarers’ engagement regulations. The Zanzibar seafarers’ engagement regulations as provided under the convention, requires seafarers to access to an adequate, efficient and accountable system without seafarers’ expenses for finding onboard ship employment. The regulations here aim to promote and protect seafarers’ employment rights in the recruitment process. According to the convention, the crewing agencies are required to ensure that seafarers’ employment contracts are in line with the applicable laws, regulations, and collective bargaining agreements.
According to Standard A1.4 para 1 and 2 of the Convention, seafarers’ recruitment agencies operating within the members’ jurisdiction “shall be in conformity with a standardized system of licensing or certification or other forms of regulation”. The provision requires the governments to regulate seafarers’ recruitment services while ensuring the compliance of requirements sets out under the convention. In addition, the system of seafarers’ recruitment under the convention entitles the mandatory provisions for the consultation with seafarers’ trade unions and shipowners’ organizations in all processes for establishment, modified or changed instruments. According to the provisions, member states obliged to ensure seafarers’ trade unions and shipowners’ organizations existing in their jurisdictions are consulted prior to the process takeoff.

So far, currently, Zanzibar is operating the shipping registry with the obligation to ensure those registered ships meet the requirements of the convention. Besides, Zanzibar has two types of ship registry; the national ship registry, which is under the Zanzibar jurisdiction, and the international ship's registry. However, ZMA has recently suspended to register international ships by the URT pending investigation due to the so-called breaking of maritime laws (Allison, 2018). In addition, the crewing agencies are important institutions in the realization of seafarers’ rights. Therefore, the institutions that provide seafarers’ recruitment services, specifically the private recruitment agencies, will also be discussed in this study. This chapter aims to provide a snapshot of the concept of the seafarer, the maritime instruments both international and national, and the current seafarers’ recruitment practices.

3.2 Who is a seafarer?

Under Article II, para.1 (f) of the MLC 2006, a “seafarer” described as;

“All person who is employed or engaged or works in any capacity onboard a ship to which this Convention applies”.

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According to the convention, it is decisive that seafarers include all persons employed, engaged or working onboard a ship regardless of their positions. Besides. Piñeiro, L. C(2019), described seafarer as any person or category of persons employed or engaged or works on board a ship unless and until the following special factors are determined by the maritime administration:-

i) The duration of the stay on board of the persons concerned;

ii) The frequency of periods of work spent on board;

iii) The location of the person’s principal place of work;

iv) The purpose of the person’s work on board;

v) The protection that would normally be available to the persons concerned about their labour and social conditions to ensure they are comparable to that provided for under the Convention.

According to Piñeiro, L. C (2019), seafarers are all categories of persons working on board ship unless maritime administration defines otherwise. This aligns with Article II para 3 of MLC, 2006 that provides maritime administrations with the mandate to determine the definition of a seafarer in the event of the doubt prior consultation with Seafarers’ trade unions and Shipowners’ organizations.

Despite the commonness of the wording, “seafarer” in the maritime context, the inclusion of Masters and Engineers as seafarers raised hot discussions at the IMO sectoral meetings. Subsequently, the essential changes have been adopted by the ILC to include all crew assigned for the work onboard the ship. The government of Japan once urged that the responsibilities of maintaining order on a ship by Masters, could not be substituted. In support of Japan, the government of Korea has emphasized that the master and chief engineer were not regularly engaged in watchkeeping duties like other seafarers, thus excepted from hours of works (McConnell, M., Devlin, D., & Doumbia-Henry, C. (2011). However, the government of the United Kingdom disagreed with the arguments by pointing out that the human element was a priority concern under the international maritime regime on which many accidents at sea caused by fatigue; thus, the regulation could not ignore master and engineer from
seafarer since they were included in the aforementioned regime. In these arguments, the government of the United Kingdom was in support of the Convention to include Masters and engineers as seafarers.

According to McConnell, M. et al (2011), many countries have excluded masters and engineers from the wording seafarer based on hours of work. Besides, the convention requires member states to implement the Convention by adopting their national legislations. Primarily, when it comes to a legal perspective, the concept bound with the national legal systems and the principles are subject to the moral and traditional values of the country concerned (Lielbarde, S. 2017). Further, seafarers are entitled with minimum protection, which includes rest periods, the right to repatriation with maintenance, the right to compensation for the lost property and other mandatory entitlements. Moreover, seafarers are required to meet basic training and hold health certificates prior to engagement for the onboard work.

In Zanzibar, Article 2(1) of the Maritime Transport Act No. 5/2006 of Zanzibar, a seafarer defined as;

“Every person (except masters and pilots) employed or engaged in any capacity on board any ship”.

However, a definition provided under this Act conflicts with the one provided under the current Seafarers’ engagement Regulations of Zanzibar that are amended in 2018 under Article 2. The provision described “Seafarer” as;

“Any person who is employed or engaged or works in any capacity onboard a ship”.

This definition has the same meaning as stipulated under the MLC, 2006 and includes all persons or categories of persons employed, engaged, or works on board a ship. It is unfortunate that despite this new amendment in the regulations, the current maritime transport Act. No. 5/2006 has not yet amended to align with the regulations. The conflict of these instruments has a big impact when it comes to maritime disputes.
In conclusion, the author found that despite the definition set out under the convention, the national maritime administrations could determine who is a seafarer through their legislation according to the nature of their work. Since seafarers live and work outside their countries, leaving the countries to determine a definition of a seafarer may affect the rights of seafarers from a broad perspective. Besides, despite the amendments of Zanzibar seafarers’ engagement regulations to comply with the convention in many areas, its implementation cannot be worth anything without the amendments of the Maritime Act (MTA), 2006. Subsequently, amendments of MTA are important for the effective implementation of the regulations and in realization of good practices as well.

3.2.1 Seafarers’ Employment Agreement (SEA)

The Seafarers’ employment agreement is an individual legal contract between a seafarer and shipowner or shipowner representative. Under the MLC, 2006, public and private recruitment and placement services are obligated to keep records of qualified seafarers, providing and arranging employment, and must inform seafarers of their rights and obligations under the employment agreement.

Under MLC 2006, the compliance of seafarers’ recruitment services is the key to ensuring that seafarers are protected against unfair recruitment practices. Then the Convention requires member States to ensure manning agencies operating in their jurisdictions maintain registers of the employed seafarers; inform their rights and duties, verify seafarers’ qualifications and ensure they hold the correct documents as per the minimum requirements. Shipowners who have employed seafarers through crewing agencies must ensure the service they provide is certified or licensed and also regulated to reflect with the MLC, 2006. The MLC, 2006, discourages the use of recruitment services that are based in countries that have not ratified the Convention. Member States are also requires ensuring seafarer recruitment services operating in their territory comply with a standardized system of licensing or certification. Similarly, no fee or other charges from seafarers for finding a job
excluding the costs of statutory national documents. In addition, the member requires
discouraging any mechanism used by manning agencies which aims to prevent
qualified seafarers from securing employment.

Abusive recruitment practices pave the way in some cases to labour exploitation. The
MLC, 2006, aims at preventing such practices, and the requirement for registration of
recruitment and placement services should, over time, reduce instances such as those
mentioned. Reported abuses by manning agencies include, but are not limited to debt
bondage (in order to be able to reimburse recruitment fees); blacklisting, for various
reasons such as: establishing or joining a trade union or exercising legitimate trade
union activities and in violation of the MLC, 2006, and the Freedom of Association
and Protection of the Right to Organize Convention, 1948 (No. 87), which guarantees
workers the fundamental right to freedom of association); complaining about unfair
treatment, poor working conditions and other concerns; being subject to pending
disciplinary proceedings; misleading information about the nature and conditions of
work; passport retention; illegal wage deductions.

Seafarers often seem reluctant to use the complaints mechanisms under the MLC,
2006, regarding recruitment and placement services and State supervision
responsibility. This is allegedly due to the fear of limiting future employment
opportunities and being labeled “troubleshooters”. Instead, complaints are submitted in
a manner that safeguards anonymity including through channels such as the ITF, other
trade unions, or port chaplains who in turn notify the relevant authorities.

SEA is the mandatory requirement in the recruitment of seafarers. Under regulation
2.1 of the MLC 2006, shipowners are required to provide seafarers with an
employment agreement under the terms and conditions set out in the international
conventions. Regulation 2.1 (1) provides that;

“the terms and conditions for employment of a seafarer shall be set out or referred
to in a clear written legally enforceable agreement and shall be consistent with
the standards set out in the Code”.
Article IV of the convention sets out several seafarers’ employment and social rights such as a safe and secure workplace, fair terms of employment, decent working and living conditions on board a ship, health protection, medical care, and social security protection. In the realization of the convention, member states have the obligation to ensure effective measures related to seafarers’ employment conditions are in place, implemented and enforced in compliance with the convention (McConnell, M., et al (2011).

Further, Standard A2.1 (1a) of the code sets out the important requirements to be included in the SEA and necessary procedures to be followed before a seafarer signs a contract. For instance, shipowners require to provide clear written terms of employment, ensure seafarers examine and well understood the agreement. The provisions also require shipowners to provide seafarers with enough time to seek appropriate advice to ensure that seafarer freely accepts the agreement before signing. Moreover, Standard A2.1 (4) sets out the details that must be contained in the employment agreement. Similarly, the code require SEA to indicate termination of contract and its conditions thereof including notice of period of termination. In the same vein, the convention requires members to identify seafarers’ social security benefits for shipowners to include in the SEA. All these requirements should be incorporated into the SEA in the recruitment process.

Generally, the convention provides a member with an obligation to facilitate the effective implementation and compliance of the requirements associated with seafarers’ recruitment processes to achieve seafarers’ decent working and living conditions.

3.2.2 Seafarers’ career & skill development

Concerning the seafarers’ career and skill development, the regulation 2.8 of the MLC 2006 requires members to develop national policies in respect to the convention in order to promote opportunities for seafarers’ employment and career, and skills
development domiciled in their territory. This is to encourage member States to facilitate the strengthening of seafarer competence, qualifications, and employment opportunities. The MLC, 2006, envisions both initial and continuous training for seafarers. The guideline sets out the different steps that can be taken to promote the objectives, including career development and skills-training agreements with shipowners or ship-owner organizations, maintaining a list of qualified seafarers and promoting onshore and offshore opportunities for further training and education.

The education and training of potential seafarers is an important consideration in the shortage of certain categories of seafarers, in particular officers. The MLC, 2006, on training and qualifications aims to ensure that seafarers have the required training and qualifications to carry out their duties on board a ship. Seafarers are prohibited to work on a ship unless they have fully completed their training and are certified as competent personnel in accordance with the Standard of Training, Certification and Watchkeeping (STCW) Convention, 1978. The STCW Convention establishes the minimum requirements for training, certification, and watchkeeping for seafarers.

According to STCW, the certificates must be issued to candidates who meets the minimum requirements for the work onboard (such as age, medical fitness, training, qualification, and examinations). Women and men need equal access to training and education. Technological developments could have the effect of creating a skills gap as seafarers’ competences may struggle to evolve as fast as the developments taking place. This could increase the chances of accidents occurring if seafarers are not trained in the appropriate use of new technology that has been introduced on a ship. The continuous education and training of seafarers are required to ensure that seafarers strengthen their skills and employability.

Training responses to technological developments could include the re-skilling, deskilling, or up-skilling of seafarers. “Deskilling” could mean that less qualified workers would perform the same tasks that, previously, would have required a worker
to be highly skilled; now, they would be able to rely on automation. Training seafarers in new technologies will enable them to benefit from new opportunities that arise as technological developments continue. Technology and digital training was the second most requested type of training by seafarers after equipment refresher training. The skills identified as being the most important in the context of automation were engineering, electro technical and in-depth knowledge of IT systems and electronics. Social partners, educational/training institutions, flag States, and international regulatory bodies should work together to assess and evaluate the requirements for future skills and training since training and education remains the heart of the seafaring job.

3.2.3 Seafarers’ recruitment agency

Seafarers’ recruitment agencies are described as an organizational unit commissioned for the provision of seafarers’ job placement to work onboard ship vessels (Kopeć, A. 2015). Manning agencies play a significant role in the shipping industry that brings shipowners to depend on agencies for seafarers’ services. Under the Convention, Manning agencies must hold a valid license for operating services in the territories of member states. The license must be granted to the legally registered entity performing seafarers’ recruitment services based on national classification (ILO 2007). Similarly, the provisions and agreements relating to crewing agencies should be duly considered.

In addition, the recruitment and placement of the seafarers Convention, 1996 adopted at the 84th Conference of the ILO regulates among other the seafarers’ recruitment services, the procedures for legalizing the agencies engaged in seafarers’ recruitments, and the way of control them and their services. Further, the convention provides the opportunity for recruitment agencies to set out their own administrative policies in compliance with national and international minimum standards of requirements. The policies must be friendly to seafarers’ access to employment and must encourage the protection of their rights. The MLC 2006 is vitally important for all, including
seafarers’ recruitment agencies, since it comprises the rules governing the whole process of seafarers’ recruitments and all aspects related to the seafarers’ work at sea.

Similarly, the convention requires the states to regulate and control seafarers’ recruitment entities to provide an adequate, efficient and accountable system that will promote and protect seafarers’ employment rights. Under Standard A1.4 (6) of the code, the members are obliged to supervise and control the recruitment services in their territories to ensure that they meet the requirements of national legislation in respect to the Convention. State parties that have ratified the Convention are obliged to contribute to the full effect of its regulations to ensure the right to decent employment to all seafarers (ILO 2009). The purpose of the provisions is to ensure access to a reliable and well-regulated system of recruitment and employment of seafarers.

So far, the Convention requires the national competent authorities to consider the right to privacy and the need to protect confidentiality of the recruitment agencies, and the conditions under which the recruitment agencies can handle seafarer personal data (including the collection, storage, forming and forwarding of such data to third parties). According to the provisions, it can be concluded that the agencies do not necessarily have to share their data to a common database of the recruitment agencies but can keep the information about seafarers for themselves. However, they should allow the competent authorities to access complete and comprehensive records of seafarers referring to the system of seafarers’ recruitment, which include seafarers’ qualifications, employment records, personal information about employment and medical data relevant to employment (in order that the competent authorities could perform the control of recruitment agencies). Agencies are also obliged to keep updated the list of ships for which they engage seafarers, publish their costs, etc.

In addition, under the Convention, the recruitment agencies are obliged to establish a system for seafarers’ protection through insurance to compensate seafarers in the event
of monitory loss or when shipowners fail to meet her obligations. However, the study conducted by Sampson, H., et al. (2018), indicated that almost half of all seafarers denied the contribution of pension by their employers. Despite the complexity of seafaring work, seafarers remain the victims to negative consequences resulted by bad practices in the recruitment processes (Visvikis, I. D., & Panayides, P. M., 2017).

On the other hand, The Act on ratification of the MLC, 2006 was adopted in Zanzibar in late 2009. According to Zanzibar legislations, the entities that engaged in seafarers’ recruitment must comply with the standards laid down in the Convention, whether services operated by the public or private entity. Under the Zanzibar legislations and manning agencies it is required to hold a valid license for operating services within the Zanzibar territories and which must be issued by the ZMA as the competent authority.

According to the current data from the ZMA, there is only one licensed entity in Zanzibar engaged in the recruitment of seafarers to work on board foreign going vessels. However, the available data indicated that there were 42 shipping agencies operating as legal entities licensed in Zanzibar by 2015. All of these shipping companies are operating as the local entities by which seafarers are recruited through the shipowners themselves.

3.2.4 Flag state responsibility

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) under articles 91 and 92 sets out the legal basis for a ship and state flying its flag requires having a genuine link to protect the rights and welfare of seafarers. Article 94 (1) of UNCLOS provides the necessary legal duties for a flag state over ships flying its flag. The provision provides that;  

“Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”.

According to UNCLOS, 1982 and MLC, 2006 Conventions, flag states must be granted nationality over the ships flying its flag in order to abide with the responsibilities of respective ships in terms of technical, administrative and social affairs. The wording ‘flagging’ of a vessel generally described as an act of country to provide relevant ships with its nationality in order to provide the said country with the authority under jurisdiction of its national legislations. Subsequently, the country by virtue assumes responsibilities over the flagged vessels. The flag state has also the responsibility to ensure the ships flying its flag maintain the reputation of its country by controlling them technically, administratively and all social matters including its onboard crew.

Since World War II, the term ‘Flags of Convenience’ (FoCs) has emerged with many criticisms about the absence of a “genuine link” between a state and a person or entity claimed nationality as determined by the International Court of Justice (ICJ) at its ruling in 1955. The ICJ in the Nottebohm case ruled out the importance of state and person or entity to meet the requirements of naturalizations in order to constitute a legal bond with genuine connection. Similarly, several provisions of UNCLOS (such as Art. articles 29, 91(1) & (2), 104, 106, and 110(1)(d) & (e) and of the IMO Convention on the High Seas,1958 which requires a member state to award ships flying its flag a nationality, providing a genuine link between the state and the ship are subject to international law. In doing so, the state provided with the right to regulate ships in all matters including the imposed conditions may deem fit while the ship abides by the conditions set out by the member state.

Additionally, some literatures indicate that the concept of Open Registry (OR) has transformed maritime transport into a global business being a most competitive industry. Having the freedom to register ships in the country of their wishes, shipowners and the like used the opportunity of existing the system to overcome what they feel/calls restrictions exercised by certain states (Alderton, T., et al (2004). The United States championed the formation and development of OR system in the
previous century by successfully initiating the ship registration of Panama followed by Liberia in the late 1940s. Consequently, the competition in the ship registration under open registry emerged enormously. However, the efforts to flag out the system due to increased cases of abandoning both seafarers and flagged ships seems to face the most difficult challenges despite the international measures in place to implement the resolution. The implication of the OR system involves among other the lesser conditions for ship registration, better economic operations in respect to low seafarers’ wages and costs for ships maintenance, ships inspections and enforcements to mention a few.

Referring to the experience of challenges concerning the OR system, the International Transport Worker’s Federation (ITF) argued that the ‘genuine link’ between actual shipowners and the nationality of ships flying a flag must be established in order to identify real ownership subject to international law in the event of a ship and its crew are abandoned. Further, Article V para 2 of MLC 2006, the flag is obliged to establish mechanisms to ensure the implementation, compliance, and enforcement over ships flying its flag. The obligation should go in line with all matters related to ships flying its flag are handled effectively. Similarly, the flag state is entitled jurisdiction over ships flying its flag under its legislations to all related matters including initiating legal proceedings when breaching the law.

3.2.5 Labour supplying responsibilities

Labour supplying countries have specific obligations and responsibilities over recruitment agencies operating under the jurisdiction of the country are concerned. Regulation 5.3 of the MLC 2006 provides the labour supplying country with the mandate to establish effective mechanisms for the inspection and monitoring system and enforces the operation and practice of seafarers’ recruitment services relevant to the country’s national jurisdiction. In the same vein, the provisions of the Code requires labour supplying countries to ensure seafarers’ rights for social security is protected. In realizing the effective implementation of this code, the ILO requires the
relevant supplying countries to report an implementation and enforcement progress in accordance with article 22 of the ILO constitution (ILO 2015). The ILO instruments and measures aim to ensure that the recruitment agencies assess the effectiveness and compliance with the minimum standards/requirements as set out by the Convention.

In addition, the MLC 2006, addresses the rights and welfare of seafarers includes Standard A4.5(3) which obliges the labour supplying to take measures to ensure its seafarers enjoy complimentary social security protection; many seafarers are victims of their rights (International Labour Office. 2015). Further, Regulation 5.3(Standard A5.3 (1) of the Convention obliges labour supplying countries to establish an effective inspection and monitoring system for enforcing requirements of the convention to the operation and practice of seafarers’ recruitment and placement services under their jurisdiction. Similarly, Regulation 5.3(3) of the MLC 2006 obliges labour supplying countries to establish an effective inspection and monitoring system for enforcing recruitment and the placement of seafarers within its jurisdiction. In addition, the labour supplying country is responsible to ensure that those social responsibilities associated to seafarers domiciled in its territories are implemented accordingly.

3.2.6 The role of seafarers’ trade unions
Trade Unions or Labour Unions are described as the organizations created by the workers to facilitate the interest of its members in securing decent working conditions. Trade unions are established under the ILO Conventions on the freedom of association and protection of the right to organize, 1948. Trade Unions perform several functions including facilitation discussions with employers on behalf of workers to negotiate among other the workers’ the payment, hours of work and rest, compensation when it comes to workers’ illness, injury at work, conditions of work and so forth. In addition, Trade Unions play a major role in the protection and improvement of workers’ rights and welfare. The freedom of association is an important workers’ right since they play a vital role in the development of their countries. The freedom of association facilitates
the implementation of labour standards is set out under the relevant conventions, regulations and national legal frameworks.

In addition, seafarers’ Trade Unions are entitled to have a mandate to negotiate and enter into collective Bargaining Agreements (CBAs) with the shipowners of their representatives on behalf of its seafarers/members. The agreements related to the matters of seafarers’ wages, working hours and hours of rest, overtime, compensations and other seafarers’ employment terms reflect the national and international maritime and legal regimes (SIRC 2003). Further, the Unions have made a major impact on industrial societies today (Ebbinghaus, B., and Visser, J. (2000) which enables seafarers to secure their legal rights as prescribed under international legal instruments.

Similarly, seafarers’ trade unions play a significant role in the promotion and advocate the implementation of MLC, 2006. They play a vital role to facilitate decent working and living conditions on behalf of seafarers. Amongst others included are negotiating with employers on seafarers’ wages, hours of work and hours of rest, working conditions, collective bargaining agreements and the general function for the protection of the seafarers’ rights, welfare, and interests to mention a few. Through active involvement in the discussions and negotiations with employers for the protection of the workers’ rights, the sector has grown tremendously while securing collective bargaining agreements with the employers.

Moreover, trade unions carry high expectations from their members in the protection and advocating their rights and interests. Only strong unions can secure the seafarers’ living and working conditions through their CBAs. CBA as referrers to as industrial agreement concluded between the trade union on behalf of workers in the one part and the employer on the other was established under the ILO Convention on the right to organize and collective bargaining Convention, 1949. The Convention in the maritime industry aims to the realization of seafarers’ rights. The agreement contains among other the terms and conditions of employment collectively negotiable between the
trade union on behalf of workers and the company and certified by the responsible public national authority. The ITF as an international trade union representing millions of global workers in the transport sector, has done a great job in facilitating among other the implementation of the international maritime instruments, specifically the MLC, 2006. The ITF has built self-respect and became an influential and most powerful global institutions in the international industrial fora. Several collective bargaining agreements concluded with employers illustrate the evidence of the efforts they put in realizing the implementation of the Convention. According to ITF, among the Agreements on which the ITF concluded as the result of industrial action includes:

a) International Bargaining Forum (IBF) Agreement;
b) Total Crew Cost (TCC) Agreement;
c) Standard Agreement;
d) Individual employment contracts;
e) Collective Bargaining Agreement (CBA);
f) Special agreements

Further, the formation of tripartite committees in the decision-making processes are found in the MLC 2006 that include the government, trade unions’ and the shipowners’ organization illustrate how strong trade unions are when it comes to the serious maritime matters which affect individuals and the entire society. Moreover, the ITF as an international seafarers’ representative has put in place appropriate measures for collective bargaining agreements to facilitate seafarers’ decent working and living conditions through the implementation of international maritime instruments such as MLC 2006. The ITFs’ effort intended to facilitate the implementation and enforcement of MLC 2006 by shipowners to protect seafarers from dishonest shipowners. Such measures include the ITF uniform total crew cost ("TCC") collective bargaining agreement ("CBA") crews on the flag of convenience Ships, the TCC special Agreement, the ITF offshore collective Agreement, ITF standard CBA, Special Agreement template to mention just a few. Following the meetings between the ITF and Joint Negotiating Group (JNG) of maritime employers from time to time, the ITF
and JNG concluded agreements that set out standard terms and conditions related to seafarers. According to the ITF, the standard terms and conditions apply to seafarers working onboard the ships owned or operated by the companies in membership with the Joint Negotiating Group. Some of these agreements as specified by the ITF include the IBF Memorandum of Agreement, ITF-IMEC IBF international collective bargaining agreement 2019-2022 and the IBF Special Agreement.

In Zanzibar, seafarers’ trade union traced back in the 1940s when the dockworkers refused to work following poor working conditions and the low pay among the Africans (ZASU, 2017). According to Zanzibar Seafarers’ Union (ZASU), seafarers’ trade was a first trade union established in Zanzibar. ZASU is an affiliate member of an ITF by which it implement the ITF’s arrangements, standards and guidelines as mentioned above.

In conclusion, seafaring is a distinct professional that is exposed to the high-risk situation on which the international community has paid special attention. The seafarers’ bill of rights, the MLC 2006 as its name has been a key instrument for the protection of seafarers’ rights and its associated benefits. All the governments, shipowners, recruitment agencies and the seafarers through trade unions have a substantial role to ensure the implementation and compliance of the convention particularly in the recruitment and placement of seafarers. In addition, the seafarers’ trade unions are important organizations that are in the realization of the protection of seafarers’ rights and welfare. However, the situation in the recruitment processes, the national regulatory systems, as well as the employment conditions do not reflect the requirements of the convention and its codes. Therefore, the seafarers’ trade unions have a big role to play in a way to give seafarers’ decent living and working conditions as illustrated in the relevant conventions.

### 3.2.7 Access to jurisdiction

Seafaring is an international profession that involves global trade. Thus, seafarers experience frequent travel from one point of the world to another. The evidence shows
that working areas where labour disputes have always occurred have contributed by the breach of rights of the employees. Similarly, the seafaring disputes occur when it lacks decent working and living conditions on board ship on which some shipowners tend to breach the minimum requirements of international labour standards and seafarers’ contracts as well (Chen, G., & Shan, D. 2017). In realizing this, the MLC 2006, entitled seafarers the right to complain both onboard ship and ashore.

According to Chen, G., & Shan, D. (2017), the nature of seafaring works involves among other states’ jurisdictions depending on the working environment on board a ship. While the access to fair and unrestricted jurisdiction is a vital element of labour rights, the Title 5(4) of the MLC 2006, has put in place the provisions that protect seafarers against, among other things, the discrimination in access to courts, tribunals or other dispute resolution mechanism. Besides, the MLC 2006 requires states to exercise their jurisdiction over seafarers’ recruitment activities across their territories and ensure that seafarers attain access to justice.

Further, article 18 of the Brussels Rules provides that an employer may be sued in the court of the member state where s/he carried out his/her work. Therefore, in the event where the rights of seafarers impeded by the recruitment agencies, then the relevant authorities of the labour supplying country on which recruitment activities operated, have jurisdiction to determine the maritime labour disputes. Yet, the Seafarers’ employment agreement (SEA) is an important document that initiates a legal relationship between a seafarer and the shipowner. Through SEA, a seafarer is entitled to the right to sue a shipowner when their labour rights are violated.

Besides, regulation 5.2.1 of the MLC 2006, the port state provides the mandate to detain the ship if found among other serious breaches of the seafarers’ rights and or claims by seafarers or other professional institutions such as trade unions. According to the convention, there are three avenues for a seafarer to access to justice. The first is the flag state; the flag state plays an important role in the realization of seafarers’
access to justice because the applicable laws when it comes to the dispute are the workplace laws. Article 94 of UNCLOS provides the mandate to flag state to exercise its jurisdiction over the ship flying its flag technically, administratively and all social matters. The second avenue is the labour supplying country and the third one is the country of residence of the shipowner.

In conclusion, access to justice for a seafarer is not an easy task; it associates with many complications and difficulties. Firstly, the seafarer has been a weaker party in terms of access to justice because the applicable laws remain in the hands of the flag state. Besides, the costs of dispute, for instance, hiring a lawyer would not be financially affordable for seafarers. Similarly, if the judgment is in a foreign country, it requires recognition to the country of residence before enforcement. Sometimes, the enforcement is difficult because the experience shows that the employers have always invested their assets in their country's residence. Thus, this makes it difficult for a seafarer to access justice. However, the only way for a seafarer to access to justice is financial security as regulated under the Convention. In addition, the recruitment agencies should be required to ensure all seafarers recruited are entitled an insurance and put financial security to cover the costs related to seafarers’ employment and in the event where the shipowner has failed to meet his/her obligations.

3.3 Review of international instruments
The international community has played an important role in the development and facilitation of international maritime legal frameworks in the protection of seafarers’ rights. Several instruments related to seafarers’ rights and protection have developed and been enforced along with the aims to ensure seafarers achievements and gain decent working and living conditions. Some of these rights were instituted to protect seafarers such as the right to fair seafarers’ recruitment and placement, the right to a seafarers’ career and skill development, right to an employment agreement to mention a few. The most important international instruments related to seafarers’ rights are the...
MLC, 2006, as refers to the “seafarers’ bill of rights”, the STCW and the Convention on Safety of Life At Sea and its protocols (SOLAS), 1978, to mention a few.

The MLC 2006 is referred to “the Convention” throughout this dissertation. It is comprised of a set of comprehensive global standards that are consolidated and revised the earlier international maritime instruments. The adoption of the Convention by the International Labour Conference (ILC) held in Geneva on 7th Feb 2006 was a successful attempt carried out through the five-year tripartite negotiations that involved the governments, seafarers’ trade unions and the shipowners’ organizations (Skuld, 2019). The ILO Consolidated Convention set out the seafarers’ rights, which includes;

1. Fair terms of employment;
2. A safe and secure workplace that complies with safety standards;
3. Decent working and living conditions on board ship;
4. Health protection, medical care, welfare measures and other forms of social protection.

The STCW sets out the requirements for a seafarer to work onboard ship that includes among others the seafarers’ mandatory documents such as certificates for training and seagoing services. It also covers “regulations on alcohol and drug consumption, control procedures and guideline” and other instruments for watchkeeping and rest hours on board ship (ITF, 2017).

According to the STCW Convention, all seafarers other than officers serving onboard ships must undergo basic (mandatory) IMO approved training. The basic training includes elementary first aid, personal safety, and social responsibilities, basic firefighting and fire prevention and personal survival techniques. In addition, they must undergo familiarization training before assigning on board for the ship’s duties.

Further, the able seafarers, both deck and the engine, must obtain a certificate of competence from the maritime administration before fulfilling the requirements. These
requirements as specified under the STCW include a certificate for watchkeeping (Rating forming part of deck/engine watch), completed 12 months approved seagoing service in the deck/engine department, or completed 6 months approved training and meeting the standard of competence assets out under section A-III/5 of the code.

Seafarers’ recruitment is not a new terminology in the shipping industry. It was first raised under the Employment Service Convention (C088), 1948, which was adopted by the 31st ILC session of the ILO in San Francisco on 09 July 1948. The Convention, among other aims, is to promote employment opportunities for seafarers by assisting them to acquire the well-regulated employment on board the ships as described under Article 6(a) of the Convention. Meanwhile, the Recruitment and Placement of Seafarers Convention (C179), 1996 repealed the C088 convention to strengthen seafarers’ rights. However, MLC 2006 has consolidated all international maritime instruments for the sake of effective implementation, compliance, and enforcement. Therefore, the Convention remains a principal instrument for seafarers’ employment.

Furthermore, recruitment and placement of seafarers have vital importance since it involves the life of seafarers on board a ship not limited to the rights and working and living conditions. Under the MLC 2006, the recruitment and placement services are required to comply with the relevant national laws and regulations. Regulation 1.4(2) of the Convention requires the seafarers’ recruitment and placement services operating in the jurisdiction of the state party to comply with standard requirements as set out in the code. Besides, under MLC 2006, Standard A1.4(6), (7) of Regulation 1.4 requires the maritime administration to supervise and control recruitment and placement services administered in its territory and ensure adequate instruments and procedures for investigation are in place. Besides, under MLC 2006, Standard A5.3 of Regulation 5.3 provides that;

“Each member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territories through a system of inspection and monitoring
and legal proceedings for breaching licensing and other operational requirements provided for in Standard A1.4”.

Moreover, the compliance of MLC, 2006 concerning recruitment and placement services is the key to the protection of seafarers against unfair recruitment practices. Despite the existence of international legal instruments that regulate the recruitment services in many years, the seafarers’ recruitment services have been criticized for mistreating and/or bullying the seafarers in the recruitment processes.

3.4 Zanzibar instruments

Zanzibar is a semi-autonomous country of the URT having a full mandate in maritime affairs. Under its legal mandate, the country regulates all maritime affairs within its territorial jurisdiction. It regulates responsibilities pertaining to the Flag state; Port state and labour supplying country, maritime safety and security and other related maritime issues. It should be noted that Zanzibar has inherited British colonial laws that have long been in force in the country. Besides, the Zanzibaris as an island nation has always depended on the sea maritime transport in their day-to-day socio-economic activities.

The government of Zanzibar recognizes the importance of maritime transport and related activities for the social and economic development of the country and its people. However, maritime activities always require careful and strict monitoring to ensure safety of life at sea and the protection of marine environment. In order to determine whether the country fulfills its international obligation in the maritime industry, the government of Zanzibar recognized the need to revise its maritime legislations and management system to keep pace with the global change in the maritime industry.

Therefore, in 2006, the government of Zanzibar through the responsible Ministry for maritime affairs has enacted maritime transport Act No. 5/2006 to facilitate the implementation of the MLC 2006 Convention. The laws among other things provide
the country with the registration of ships (national and International Registry), seafarers’ registration, certification and their welfare, the protection of marine environment and matters related thereto. Since then the country has developed and amended regulations and laws from time to time. The current maritime law was last amended in 2013.

Currently, Zanzibar has adopted and/or domesticated about 28 regulations related to maritime affairs to ensure the effective implementation of the convention. Among these regulations, include the seafarers’ engagement regulations, which is important for the employment of seafarers and the protection of their rights and welfare as well. Other instruments related to seafarers currently in place include the Seamen’s record book and identity card regulations, fees and charges regulations, safe manning regulations, ship and port facility security regulations, crew list regulations, the inquiry of conduct of seafarers regulations, repatriation and relief of seafarer regulations, seafarers medical examination regulations to mention a few. In addition, Zanzibar has set out the maritime strategy for the implementation of IMO instruments to ensure the compliance of the international instruments within its jurisdiction.

### 3.5 Zanzibar current situation/practices

Zanzibar has a long tradition for producing quality seafarers. The evidence indicated that since the inception of the Zanzibar Merchant Shipping Act, 1894, the country has observed periodic maritime reforms. In 2006, the Zanzibar Maritime Transport Act (MTA) was established to go parallel with the international maritime labour Convention. Similarly, the Zanzibar Maritime Authority (ZMA) was established in 2009 to ensure the implementation and compliance of the national legislation and the international Conventions as well. Since its inception, ZMA has played a vital role in the promotion of recruitment practices in a way to fulfil its international obligations. Besides, in 2014, the ILO launched the Fair Recruitment Initiative (ILO-FAIR) to protect the rights of workers from fraudulent and abusive recruitment practices, among others.
Having knowing that seafaring may offer the adventure of being at sea, to travel around the world, good pay, flexibility, insurance and long leave periods which influenced by the working and living conditions provided on board a ship (Arsenie, P., et al. (2014). The prospect of a long and rewarding career at sea with the potential for a successful transition into a shore-based career afterward could also draw one into a maritime career (Jensen, A. K., 2015). Jensen, A. K. et al. (2015), believed that shipping companies could do better if they take into account seafarers’ expectations for career development and plans. Jensen, A. K in his study identified several issues in connection to cadets such as multicultural interaction, safety, security, workload/stress, discrimination, harassment, and loneliness as concerns about going to sea. Exposure to the maritime sector tends to be negative, as public attention to seafaring is usually drawn following marine disasters, reports of human trafficking, or incidents of piracy and abandonment of seafarers. Certain recruitment practices may encourage careers in shipping. These include practical training on board ships for cadets with access to up-to-date simulation technologies; significant investments by governments and social partners in the establishment and support of education and training programmes; career plans that enable skilled seafarers to transition to shore-based careers, either when they reach a certain age and level of experience, or for periods during their sea-based career; upgraded living conditions on board ships; the enhancement of social benefits for employees; STCW certificates being recognized in other countries. These measures could benefit all seafarers and attract young generation to join the industry.

Zanzibar on the other hand has not done much to attract young people in the promotion of seafaring as a career. However, Zanzibar recently has established an electronic system for seafarers’ registration, application of seafarers’ book and identity documents, as well as for checking the authenticity and validity of seafarers’ documents. Zanzibar legislation requires a seafarer to hold valid certificates and other mandatory documents before engaging to work on board a ship. ZMA as responsible authority provide seafarers with seafarers’ books based on registration. According to
record from ZMA, the total number of seafarers in Zanzibar until July 2019 were 1,408. The number, however, include all seafarers employed on international vessels, coastal vessels and those who are not yet employed. However, this number differ from those declared by the Zanzibar Seafarers’ Union (ZASU). According to the report of the Zanzibar Trade Union Congress (ZATUC) delivered on the workshop on the progress of mergers in Zanzibar, indicated that the number of seafarers of Zanzibar was 4,797 by December 2012(See Table 1). This number also differ to what was declared by ZASU to the ITF as an affiliate member which showed that the number of seafarers were 1,000 by 2018. This suggest the importance of introducing a proper system for recording seafarers in the country. Both Union and maritime administration could each play its part to make this happen.

### Zanzibar Trade Union Congress, membership by gender, 2012

<table>
<thead>
<tr>
<th>UNION</th>
<th>September 2012</th>
<th>December 2012</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Men</td>
<td>Women</td>
</tr>
<tr>
<td>ZATU</td>
<td>3,100</td>
<td>3,145</td>
</tr>
<tr>
<td>ZPAWU</td>
<td>281</td>
<td>236</td>
</tr>
<tr>
<td>COTWU-Z</td>
<td>618</td>
<td>287</td>
</tr>
<tr>
<td>TUICO-Z</td>
<td>526</td>
<td>164</td>
</tr>
<tr>
<td>ZALGWU</td>
<td>850</td>
<td>453</td>
</tr>
<tr>
<td>ZASU</td>
<td>4,722</td>
<td>3</td>
</tr>
<tr>
<td>CHODAWU-Z</td>
<td>525</td>
<td>178</td>
</tr>
<tr>
<td>RAAWU-Z</td>
<td>773</td>
<td>989</td>
</tr>
<tr>
<td>ZUPHE</td>
<td>876</td>
<td>979</td>
</tr>
<tr>
<td>ZAFICOWU</td>
<td>114</td>
<td>31</td>
</tr>
<tr>
<td>TEWUTA-Z</td>
<td>126</td>
<td>17</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>12,511</td>
<td>6,484</td>
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</table>


Regarding seafarers’ recruitment services, Zanzibar legislations does not provide any provision which regulate the institutions engaged in the provision of seafarers’ recruitment and placement in the country. However, the provisions requires those who engage in recruitment services in the country should not do so without permission from
the Authority. For instance, Article 10A (1) and 29(3) of the Zanzibar Maritime Transport Act, 2006 as amended in 2013 provides that:

10A (1) “No person or institution shall engage in any maritime activities without a license or permit issued in the prescribed form by the authority”.

29(3) “No person shall, either as principal or as an agent, engage or recruit a seafarer for employment aboard a Zanzibar ship or foreign ship, without first obtaining a license in the prescribed form from the authority”.

According to ZMA, a directorate of registration and crewing has conferred a responsibility to oversee seafarers’ employment and all institutions located in Zanzibar that are engaged in the recruitment of seafarers in a foreign vessel (ZMA 2019). Further, the recruitment of seafarers in Zanzibar has been practiced many centuries ago through the government-owned vessels, particularly passengers and tankers. Similarly, in 2018, the government of Zanzibar has developed among many, the seafarers’ engagement regulations in order to regulate the employment of seafarers in the country. The effective implementation of regulations will streamline the seafarers’ recruitment services in the country towards well-regulated documentation in a way to protect seafarers’ rights and promote employment opportunities.

However, neither maritime policy nor other enforcement mechanisms/machinery exist for the realization of effective implementation, compliance and/or enforcement of the legislation in the country. In addition, a parent maritime Act that was expected to give effect to the regulations is still not amended. This has resulted the recruitment services in the country not comply with national and international instruments. For instance, the employment contracts provided with the Zanzibar seafarers for the work onboard international ships lacks minimum requirements such as social security protection. The SEAs signed by Zanzibar seafarers to work on board international vessels do not provide provision for social security protection despite the requirement is mandatory under Article 21(1) (2) of Zanzibar seafarers’ engagement regulations, which require shipowners to provide contribution to employed seafarers in their social
security scheme in monthly basis. However, the evidence indicated that shipowners
especially those who employed Zanzibar seafarers in international vessels neither
contributed to seafarers’ social scheme nor sending seafarers’ contribution to Zanzibar
social security fund (See Appendix 3). Further, some companies that employed
Zanzibar seafarers to work on international ships supplied them with two different
SEAs for onboard ship work for the same vessel and the contractual period. The first
contract were given in Zanzibar prior to the engagement to work onboard ship
followed the second one immediately after arriving onboard a ship (see Appendix
1&2). This suggest the necessity for inspectors to conduct individual inquiries when
boarding the vessels for inspections.

Further, CroNoMar (2010) provided that, recruitment process involve criteria such as
qualifications; attitude and the impacts of the intended job assigned. Article 122A (2)
(c and d) of the Zanzibar Maritime Transport Act, as amended, has incorporated the
requirements for seafarers’ careers and skills development. Similarly, article 99A of
the Act requires shipowners and the shipping companies registered in Zanzibar to
provide a minimum of two berths for practical sea training onboard their ships at no
cost to the seafarers. However, no evidence shown whether these provisions are
implemented or enforced. Despite the existence of seafarers’ recruitment services,
Zanzibar has no formal academic institution for provision of seafarers training and
education. Similarly, there is no formal system for on board ship practical training in
Zanzibar. Although, Zanzibar seafarers and those young people who are eager to join
the seafaring industry are undergo maritime trainings outside Zanzibar.

Moreover, the seafarers’ trade union in Zanzibar traced back in the 1940s when the
dockworkers refused to work following poor working conditions and the low pay
among the Africans (ZASU, 2017). According to Zanzibar Seafarers’ Union (ZASU),
seafarers’ trade was a first trade union established in Zanzibar. However, the findings
illustrate that the union did not play an active role to advocate for well-regulated
recruitment services in Zanzibar and the creation of public awareness for the rights
and welfare of seafarers. Besides, despite the existence of Seafarers’ Union for many years, the study could not find evidence indicating the effort of Union to negotiate with shipowners and/or the conclusion of CBA. However, existence of union per say has a great impact on seafarers’ rights and welfare.

Concerning access to justice, Article 108 of the Maritime Transport Act (MTA) provides seafarers with a right to submit employment-related complaints to a designated person. According to the provisions of national laws, a registrar of seafarers has the responsibility to hear seafarers’ labour disputes submitted before him/her, and has mandated to issue a conclusive award. Besides, there is no admiralty court either established in Zanzibar for determination of maritime claims. The mandate has been conferred to the high court of Zanzibar instead. Apart from that, the Zanzibar maritime legislations provide ZMA with a mandate to perform both port state and labour supplying responsibilities. According to the information found, the Union government has submitted acceptance letters to the IMO to endorse ZMA as responsible authority to undertake all related maritime affairs in Zanzibar. Hence, ZMA internationally recognized as a competent authority within its jurisdictions. Additionally, Zanzibar has two types of ship registries; the national ships registry and the international ships registry. Currently, international foreign-going ships registered by Zanzibar under its international ships open registry is about 947 (See Table 2). A conduct to register international ships by the Zanzibar authority not only identify Zanzibar as a flag state but also supports the recognition of Zanzibar in the international community. This then suggest Zanzibar to fly its own flag in order to take full responsibility as flag state.

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<tbody>
<tr>
<td>Oil Tankers</td>
<td>16</td>
<td>25</td>
<td>232</td>
<td>75</td>
<td>8566</td>
<td>11297</td>
<td>12022</td>
<td>13074</td>
<td>174</td>
<td>159</td>
</tr>
<tr>
<td>Balk Carriers</td>
<td>0</td>
<td>16</td>
<td>178</td>
<td>96</td>
<td>105</td>
<td>226</td>
<td>84</td>
<td>65</td>
<td>170</td>
<td>90</td>
</tr>
<tr>
<td>General Cargo</td>
<td>25</td>
<td>71</td>
<td>450</td>
<td>429</td>
<td>454</td>
<td>425</td>
<td>442</td>
<td>575</td>
<td>645</td>
<td>575</td>
</tr>
<tr>
<td>Containerships</td>
<td>0</td>
<td>0</td>
<td>49</td>
<td>11</td>
<td>42</td>
<td>47</td>
<td>30</td>
<td>14</td>
<td>27</td>
<td>42</td>
</tr>
<tr>
<td>Other ships</td>
<td>2</td>
<td>5</td>
<td>25</td>
<td>12</td>
<td>27</td>
<td>38</td>
<td>46</td>
<td>55</td>
<td>103</td>
<td>91</td>
</tr>
<tr>
<td>Total fleet</td>
<td>43</td>
<td>117</td>
<td>935</td>
<td>623</td>
<td>9194</td>
<td>12033</td>
<td>12537</td>
<td>13650</td>
<td>1119</td>
<td>957</td>
</tr>
</tbody>
</table>

Table 2: Tanzania fleet by Flag Registration, 2009 – 2018 (Ship registered by Zanzibar)
Source: UNCTAD, 2019
3.6 Zanzibar Maritime Authority

Zanzibar as part of the United Republic of Tanzania has its own maritime administration known as The Zanzibar Maritime Authority (ZMA). The ZMA was established under the Zanzibar Maritime Act No. 3/2009. It is an independent maritime administration working under the Government of Zanzibar. Since maritime affairs are not Union matters, the legislations of both Zanzibar and the URT have given the mandate for ZMA to regulate all maritime activities in Zanzibar. This has provided ZMA with a full mandate to regulate, coordinate and monitor all activities concerning the maritime industry throughout Zanzibar. ZMA among its functions, regulate and perform all responsibilities associates with flag state, port state, coastal state as well as labour supplying state. In its capacity, Zanzibar performs Flag State and Port State roles using its maritime legal framework. Additionally, the maritime sector offers plenty opportunities for Zanzibar to grow through blue economy initiatives. Potentially, high seas fishing, maritime transportation, tourism, oil, and gas are examples of marine-related activities that stimulate the economic growth of Zanzibar.

So far, Zanzibar has established and runs an open international shipping registration regulated by the maritime administration of Zanzibar. However, ZMA, as the maritime administration of Zanzibar, has recently suspended to register international ships by the President of the United Republic of Tanzania for the so-called pending of an investigation of over 470 foreign-owned ships registered in Zanzibar, which are claimed to be breaking maritime law, (Simon Allison, 2018). In addition, ZMA regulates and performs duties concerning the registration, certification and welfare of seafarers. ZMA as competent maritime authority in the country has developed several legal and political instruments to facilitate the discharge of its responsibilities and the implementation of international maritime regimes. Since its inception, ZMA headed by a Director-General who is appointed by the President of Zanzibar to serve for the overall duties of the authority. On top of that, ZMA is an independent organ operated under the Ministry of infrastructure, communications, and transportation of the Revolutionary government of Zanzibar. In addition, ZMA regulates all maritime
affairs that are under the jurisdiction of the government of Zanzibar, including the recruitment of seafarers.

Under Zanzibar's legal instruments related to maritime affairs, seafarers are assigned under the directorate of registration and crewing. The department is responsible for almost all seafarers’ affairs. These include “overseeing seafarers employment and all institutions engaging in seafarers’ recruitment for work in the foreign vessels; engage in resolving dispute/conflict between seafarers and ship-owners; issuing licenses to boat masters and boat engineers as well as seafarers discharge books and international seafarers identities; registering marine vessels both national vessels under the jurisdiction of the government of Zanzibar and Zanzibar International ships registration” (ZMA, 2019), to mention a few. So far, the governance of Authority has structured with important departments to facilitate day-to-day responsibilities of the Authority. Accordingly, Directorate of Registration and Crewing (DRC) and Directorate of Maritime Safety and Security (DMSS) are important departments for seafarers’ affairs. DMSS among other performs duties such as seafarers’ examination and certification, casual investigations ship inspection and certification, wreck and salvages and port state control to mention a few (ZMA 2019). Further, Zanzibar has several recognized organizations (ROs) in several countries including Panama, Cyprus, Greece, the Republic of Korea, India, Syria, Georgia, and Ukraine (ZMA 2019).
Fig 2: ZMA governance structure. Source: ZMA
In conclusion, both the national legislations and international instruments are essential instruments for improving and the development of the seafaring industry in the country. The MLC 2006 as commonly known as “a seafarers’ bill of rights” has been a fundamental tool that ensures seafarers’ rights to decent working and living conditions. On the other side, the national legislation specifically the maritime Act does not reflect with the Convention. This suggest the immediate review in respect to Convention in order to protect among other the seafarers’ employment rights, their welfare and the need of international labour market. In addition, it is necessary to clear doubt on the actual number of institutions engaged in recruitment of seafarers in Zanzibar. In doing so, will help not only to oversee those institutions engaged in recruitment of seafarers but also minimize malpractice to seafarers in the recruitment process, hence, comply with the existing legal regimes. Besides, the evidence indicated that seafarers’ problems associates to employment are due to recruitment processes.

Additionally, the absence of national policy and other enforcement mechanisms related to recruitment of seafarers may hinder effective implementation of the aforementioned provisions. Similarly, the absence of mechanisms that promote seafarers’ employment and career and skill development obstructs the development of Zanzibar seafarers. This suggest the importance of country to establish relevant maritime policies and related strategies to further the development of the industry in the country. Similarly, despite the adoption of several important regulations, the parent law is not yet amended. Therefore, the immediate need to review/amend the maritime Act and the establishment of inspection and monitoring system to effective oversee and enforcement of recruitment services in the country are vital important for the development of the industry.

Further, seafarers’ trade unions have a big role to play to furthering seafarers’ interests, rights, and welfare. In addition, study revealed difficulties for seafarer to access to justice when it comes to labour disputes and other offences associates with seafarers’ work (see Appendix 4). Thus, suggest the country to establish admiralty
courts for determination of all maritime disputes in the country. However, due to the absence of specific regulations or provisions that regulate recruitment agencies, it is obvious that the recruitment practice in Zanzibar remains complicated.
Chapter 4: Recruitment practice/process in other countries

It is not until relatively recent that the recruitment of seafarers has been on the global agenda. Many researchers have been discussed the recent industrial challenge for the supply and demand of seafarers globally. According to the BIMCO report 2015, the demand for both officers and ratings has increased dramatically by 24.1% and 1.0% in 2015 respectively. While an estimated global demand for seafarers has increased, shipping companies were indicating that the Philippines and India were among the top five seafarers supplying countries along with China, Russian Federation and Ukraine (BIMCO/ICS, 2015). In this study, three countries have been selected to review the recruitment of Seafarers; e The Philippines, India and South Africa. The Philippines and India were selected because they are in the top five seafarers’ labour supplying countries in the world. On the other hand, South Africa was chosen because it is among the most developed of the sub-Saharan countries, and has established a maritime administration of which its seafarers’ education and training is attracting many youths in South Africa and its neighboring countries (Lambert, D. 2017).

4.1 The Philippines

The Philippines is among the top five global seafarers supplying countries with China, Indonesia, Russia and Ukraine (ISC, 2018). According to Seafarers International Research Centre – SIRC (2003), more than a quarter of seafarers working onboard international vessels are supplied by The Philippines under the Philippine Overseas Employment Administration (POEA), the regulator of seafarers in Philippines (Amante, M. S. 2003). Since seafarers play a vital role in the contribution of the national economy due to sending money home (remittances), the economy of the Philippines has grown dramatically. However, crewing agencies play a vital role in the recruitment of Filipino seafarers, although some of them are recruited directly from the shipowners. According to SIRC, 2003, Filipino seafarers are recruited through more than 417 recruitment agencies based in Manila under the overseas Employment Administration (POEA) where more than 209,953 seafarers were employed in 2002. POEA is an established government body, which regulates seafarers’
employment in the Philippines. The standard of employment contact set up in POEA stipulates important rights and the welfare of seafarers including the salaries of a seafarers allowances, hours of work, holidays, settling compensation claims and grievance, repatriation and other related rights and welfare of seafarers. It also specifies job titles and length of employment not exceed 9 months with the possibility of renewal within the time-bound.

Further, the seafarers’ education system in the Philippines is categorized into two; firstly, a seafarer whose interest to work onboard ship has to undergo a four-year program, and the other set out to those who were not able to undergo the first option while eager to work onboard ships they can have opportunity to undergo a 10-day training program accredited by institutions that comply with the IMO requirements (DOLE, 2019). Furthermore, maritime training and education in the Philippines has given priority where the students have joined with maritime e-training after 10 years of tertiary education (Amante, M. S. 2003). According to Amante, M. S. (2003), the Philippines has 76 Universities and 41 training institutions, which provide maritime education and training. The system provides the opportunity for Filipino seafarers to engage in the seafaring industry.

According to the Bureau of local employment of the Republic of Philippines, the Filipino seafarers have the opportunity to work in various onboard the vessels such as cargo ships, passenger ships, tankers, and fishing vessels. Likewise, they are also employed for onshore activities including the public institutions (DOLE, 2019). Regarding social security protection, Filipino seafarers are compulsorily entitled to social security. This is why the Philippines was selected as a case study to find out how the promotion of seafarers to work onboard international ships have helped the growth of the country’s economy while at the same time reducing the unemployment gap among its people. In this study, several resources aimed at providing genuine and credible information will be used in comparison with this author’s country so that to
identify the strength behind their success and recommend how best practice should apply to promote the seafaring industry in Zanzibar.

4.2 India

Like the Philippines, India is among the strongest competitors for supplying seafarers in the world employment market on which currently it provides about 9.35% of all international seafarers. According to the statistics of Indian seafarers available at the portal of the Directorate General of Shipping of India, the total of Indian seafarers in 2017 was 154,339, accounting 62,016 officers, 82,734 ratings and 9,589 deck and engine cadets. India has adopted the Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2016 that among others set out the responsibilities of a recruitment and placement agencies under Article 5(1). In addition, sub-article 2 of the rule requires the crewing agencies to submit a monthly report to the authority. The provision provides that;

“The Recruitment and Placement Service shall furnish a monthly report in Form-I by the 12th of every succeeding month, in the manner specified by the Director-General Shipping”.

The provisions aforementioned above provide a comprehensive mechanism to implement and enforce the regulations as well as a monitoring system for the recruitment agencies. The rules also have considered the protection of seafarers’ rights and welfare and other entitlements to safeguard seafarers from exploitation, thus the rules ensure seafarers secure decent working and living conditions. According to Circular of DG of India Shipping of 14/03.2018, the Indian seafarers are recruited and placed on board merchant vessels by the shipowner themselves or through registered crewing agencies.

Further, under the Merchant Shipping (Standards of Training, Certification, and Watch-keeping for Seafarers) Rules, 2014, the Government of India has set out the important provisions for the seafarers’ education and training, thus promoting the seafarers’ skills development. Article 9 of the Rules sets comprehensive provisions to
ensure that both the seafarers and the company are assessed for the training deliveries and provisions respectively. The provisions provide;

1) The Director-General of Shipping shall designate assessment centers which shall,
   a) assess and maintain records of candidates about their sea-going service, ashore and on-board training, courses attended, examinations and assessments completed and certificates held by the seafarers;
   b) examine the documentary evidence that the candidate has fulfilled the eligibility criteria for joining an approved training and assessment program; and
   c) assist the Chief Examiner or Examiner concerned, as the case may be, in the conduct of online, written, oral and practical examinations and assessment on completion of the approved training and assessment program for each function.

2) The Chief Examiner concerned shall ensure that,
   a) the training and assessment of seafarers, including e-learning and distance learning, as required under the STCW Convention and these rules are administered, supervised and monitored as per the provisions of section A-I/6 of the STCW Code; and
   b) persons responsible for imparting training and assessment of competence of seafarers, as required under the STCW Convention and these rules, are appropriately qualified in respect to the provisions of section A-I/6 of the STCW Code for the type and level of training or assessment involved.

3) The Company shall ensure that,
   a) all the structured shipboard training programs are planned and monitored to meet the applicable standards of competence as specified by the STCW Convention and these rules; and
   b) Seafarers are guided to achieve the required levels of competence as specified in the STCW Convention.
Regarding the access to justice, India under the Admiralty (jurisdiction and settlement of maritime claims) Act, 2017 among other maritime claims, provides seafarers with access to justice as described under Article 4(1) (o) of the Act on which the jurisdiction to hear and determine a seafarers claim was vested under the High Court of India.

4.3 South Africa

South Africa ratified the Maritime Labour Convention on 21 June 2013 and entered into force on 20 August 2013. South Africa is one of the countries that were well established in the seafaring industry. According to Ruggunan, S., & Kanengoni, H. (2017), South Africa enjoys a well-established reputable brand in the international labour market motivated by reputable maritime institutions accredited by the IMO. Despite the challenge of training berths for graduate cadets, South Africa produces about 120 cadets annually (Ruggunan, S., & Kanengoni, H. 2017). According to SAMSA annual performance plan, 2018/2019, South Africa aim to develop seafarers’ skill with target of producing 1,200 ratings and 720 officers for the employment in the South African flagged vessels. The online research found that South Africa, like India and the Philippines, has many accredited maritime institutions. South Africa has several Colleges and Universities that provide maritime education and training whilst conducting maritime projects and research (Lambert, D. 2017). According to Lambert, D. (2017), the quality of seafarers’ education and training provided in South Africa attracts young people from diverse backgrounds within the country and neighbouring countries such as Namibia, Kenya, Angola and Mauritius. Therefore, South Africa provides potential skilled seafarers for the global labour market.

In addition, seafarers’ employment agreements of South Africa, ensures the rights of seafarers, which include among other things the seafarers’ social benefit scheme. Similarly, the South Africa’s trade unions play a vital role in facilitating the protection and promotion of South African’s seafarers. Among the important roles played by the trade union were the agreements entered between the Trade Unions, specifically the South African Transport and Allied Workers Union (SATAWU) on behalf of seafarers.
and Unicorn Shipping. Among these agreements were wage agreements and Collective Bargaining Agreements (See Appendix 5). Further, the legislations of South Africa provides them with the extensive protection of seafarers’ rights. Similarly, South Africa has Admiralty legislation and courts to facilitate seafarers’ access to justice under Admiralty jurisdiction Regulation Act, 1983.

In conclusion, all three countries selected in the review of recruitment of seafarers are far away in terms of the promotion of seafarers’ rights and welfare, access to justices and even the development of career and skills of seafarers. Furthermore, the political structures of both countries allow them actively to regulate, promote and protect seafarers in a way to develop the industry. In addition, since all these three selected countries are parties to the MLC 2006, their legislations not only comply with the convention, but also protect seafarers’ rights and welfare and promote the development of seafarers and the industry as a whole.
Chapter 5: Discussion and Conclusions

5.1 Discussion of findings

Based on reviewing seafarers’ recruitment system in various sources chosen in this study, what follows below is a discussion of the findings for consideration by the concerned and those who aim to undertake further studies in the same area.

5.1.1 Political system

Based on the study findings, it illustrates that the two political systems adopted in the United Republic of Tanzania might contribute to the ineffectiveness of implementation, compliance, and enforcement of international legal regimes in Zanzibar. The evidence indicated that several times appeared to come into conflict between the two governments when it comes to international matters. To highlight this, the suspension of Zanzibar to register foreign vessels through its international ship registry and the attempt of the union government to extend to the 200nm of the maritime zones, were among the examples of these shortcomings in the URT. In addition, the findings illustrate that the conflict of laws between the two governments is another problem that hampers the effective implementation of both Zanzibar legislations and international regimes.

5.1.2 Effectiveness of Zanzibar seafarer instruments

The study found that the maritime instruments related to seafarers’ recruitment have a great improvement to facilitate the compliance of the convention due to the recently established regulations. However, it can hamper the effective implementation due to several reasons including the outdated Maritime Act. Despite the existence of new regulations that are aligned with the Convention, the enforcement remains a big challenge. The findings revealed that there is no mechanism (s) in place to facilitate the enforcement of the legal instruments. The mechanisms include the policies, strategic measures such as guidelines, and monitoring system to name a few. In addition, the study illustrated the inconsistency of the recruitment system in Zanzibar resulting from lacking the absence of the strategic measures to implement the existing
regulations. Further, lack of specific instruments that regulate seafarers’ recruitment services and associate activities resulted a number of challenges in the recruitment process. Yet, there is limited support to seafarers. However, literature and findings indicated a willingness of a country to support seafarers in a way to attaining their respective labour rights and welfare.

The findings suggests the need of immediate measures to establish policy related to seafarers’ recruitment services in conjunction with the amendment of existing Maritime Act, to set up among other the provisions which regulate the organizations dealing with the recruitment of seafarers. These instruments will facilitate the effective implementation and compliance of both national regulations and the international Maritime Labour Convention.

5.1.3 Recruitment process, recruitment agencies and promotion and protection of seafarers’ rights

The study found that the recruitment agencies did not meet the standard requirements as set out under the Convention. This has resulted the recruiting agencies disobeying the existing legal instruments throughout the recruitment process. Subsequently, impede the efforts in the promotion, protection, and development of seafarers in the country. The findings suggest the recruitment agencies, the government, and trade unions to ensure that the recruitment process meets the mandatory requirements. In addition, the seafarers’ unions should play an active role to ensure the collective bargaining agreements are achieved to safeguard the seafarers’ rights and welfare. Further, the government, through the maritime administration, should closely supervise the recruitment services through monitoring and evaluating programs and activities.

5.1.4 Challenges of the recruitment system of Zanzibar and labour supplying states in implementing labour standards

The findings of this study revealed inadequate cooperation between the main stakeholders. Both international conventions and the national legislation address the
need for the governments, seafarers’ trade unions and shipowners’ organizations existing in the member to establish a tripartite forum for consultations and discussions for all maritime issues in the national jurisdictions of the member country. The findings show the need to immediately establish the tripartite forum for consultation of maritime issues including seafarers’ recruitment service. In addition, the study found that the country as a labour supplying state could not act appropriately to ensure the seafarers’ recruitment organization implement and comply with the national laws and the Convention.

Further, the findings revealed that no measures have been taken by the crewing agencies in the country to develop seafarers’ career and skills, a thing that impedes the development of the industry despite the high potential of young people who are eager to work onboard vessels. On the other side, the country could not take measures to ensure the agencies meet their obligations. Therefore, the country should take necessary measures to ensure the compliance and enforcement of national legislation in line with the convention including seafarers’ social security protection and associate benefits.

5.1.5 Factors that influenced a gap in a seafarers’ recruitment practices

The study revealed a lack of recognized and accredited maritime institutions (s) in Zanzibar. Since the current labour market seeks educated seafarers to work onboard ships, the absence of maritime institutions in the country resulted a shortage of seafarers. Similarly, it might result limited knowledge of seafarers on their legal rights. Consequently, the recruitment agencies have been taking advantage of this gap to abuse seafarers’ rights and other legal entitlements especially when enter into employment agreement with seafarers. Besides, the findings indicated the existence of legal conflict between the Union and Zanzibar legal frameworks, a thing that impede the promotion of seafarers’ employment. As discussed earlier that Zanzibar has registered more than 947 foreign-going ships, however, the finding revealed that the effort to train and develop seafarers is not yet strategized. For instance, the country could have nearly 2000 seafarers working onboard ships if would trained and helped
them to get employed at least two seafarers in each vessel. This would open employment opportunities along with foreign currencies entering into the national forex circulation.

The findings indicates the need to establish maritime schools with modern equipment to enhance the accreditation of schools and enrich the skills and competencies of seafarers. Besides, the country should enter into bilateral agreements with countries to facilitate the promotion of seafarers’ employment in the international labour market. Further, the political system of the union government and the government of Zanzibar poses a conflict of interest when it comes to the implementation of legal instruments on the part of Zanzibar. Therefore, the need for the two governments to engage in discussion could find a permanent solution for the benefits of both sides.

5.2 Recommendations

Based on the above discussion, what follows are some recommendations for consideration by those concerned.

- Individuals or institutions that provide seafarers’ recruitment services should have insurance to cover the costs of seafarers’ employment in the event where the shipowner fails to meet his obligations.
- The maritime policies including seafarers’ recruitment and retention policy should be developed to enable effective implementation of national legislation as well as the promotion of seafarers’ employment both in the country and abroad. This should be in line with the establishment of maritime institutions in Zanzibar that could be accredited by the IMO to provide seafarers’ education and training for both ratings and officers.
- The Zanzibar Maritime Transport Act No. 5/2006 should be amended to align with the current regulations to implement the convention.
- Mechanisms for monitoring seafarers’ recruitment services in the country should be established and implemented to protect seafarers’ rights and welfare and minimize the possible scam/fraud associates with seafarers’ recruitment.
- Seafarers’ database should be established to ensure that the record of seafarers is maintained. In doing so, it could help to monitor not only seafarers’ records on their engagement and discharge but also the compliance and enforcement of seafarers’ related recruitment services in the isles.
- In order to promote seafarers’ employment, the country may use the opportunity of its flagged vessels to ensure the vessels are manned by Zanzibar seafarers.
- It is a vital importance for the Union government and the government of Zanzibar to adopt a political system that could facilitate, effective implementation, and enforce Zanzibar legislation and international legal instruments.

5.3 Conclusions
Based on legal analysis, the author has conducted a study focused on the evaluation of seafarers’ recruitment in the URT based on Zanzibar as a case study that aims to establish a baseline towards a proper recruitment system in the Zanzibar maritime industry. The study has established the general picture of the status of seafarers and the drawbacks of seafarers’ recruitment management system. The study demonstrated the existing opportunities of Zanzibar seafarers towards employment in the international labour market as well as the possibility for individuals and the country’s economic development through the seafaring industry.

However, despite the increasing demand for seafarers in the international seafaring labour market, the study demonstrated that Zanzibar seafarers’ employment status has been complicated. Meanwhile, the findings indicate that employment in the seafaring industry attracts many Zanzibar youth. This is a great potential for Zanzibar to supply seafarers in international shipping. However, the lack of investment in maritime education and training, as well as unclear enforcement mechanisms, may increase complexity and unfair seafarers’ recruitment practices that may cause the worst seafarers’ working and living conditions. Unless these issues are addressed, it will be difficult to attract Zanzibari youth to the seafaring profession.
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Appendices

Appendix 1: Seafarers’ Employment Agreement (SEA) entered by Zanzibar seafarers and signed in Zanzibar prior travel to work on board a ship

SEAFARER EMPLOYMENT AGREEMENT

This Agreement is made voluntarily, this 31st day of AUG 2018 ZANZIBAR by and between:

a) FULL NAME OF SEAFARER:

b) NATIONALITY:

Address:

Certificate of Competency:

Medical certificate issued on:

hereinafter referred to as the “Seafarer”:

and:

SOX CARRIER (via) CORP. Address: 80 Broad Street, Montreal, Quebec, Canada (hereinafter referred to as the “Company” or the “Owners”) acting through DAKADE SHIPING COMPANY LIMITED, in its capacity as the Vessel’s Managing Company, which has its registered office in Cyprus at 3 Christos Kompeg Street, 3011 Limassol and has established an office in Greece at 14 Aiki Konoy, 18545, Piraeus,

collectively the “Parties”, who declare to have agreed:

1. That the Seafarer shall be employed on board the vessel:

MV CMA CGM MOLIERE


(hereinafter the “Vessel”) in the position of DECK BOY under the following terms and conditions:

Duration of Agreement:

Basic Salary:

USD 402

Overtime:

USD 206

Sub Leave:

USD 146

Food Allowance:

USD 00

Long Service Bonus:

USD 00

Various Remuneration / Payments:

USD 03

Sub Allowance:

USD 60

Total:

USD 912

Grand Total:

USD 912

2. Date of commencement and Duration of the Agreement

This Agreement, which is mutually agreed to be of a definite period, commences on the date which the Seafarer departs for a port of embarkation, which is expected to be .... ALEXANDRIA .... The duration of this Agreement is 45 days provisional period of employment, subject to Master’s and Company’s approval, which may be extended up to FOUR (4) months for Officers and SEVEN (7) months for Ratings being the total duration of employment (calculating in total from the time of commencement of employment plus/minus one (1) month in Company’s option, for all seafarers.

Premature Termination of Service Period

The Company may sign off and repatriate, any crewmember, at any time, prior to the expiration of the service period and by giving a relevant notice, of not less than seven (7) days, unless otherwise provided by the vessel’s flag regulations, provided that the crewmember will receive a compensation of two month’s basic salary and the repatriation expenses will be borne by the Company. During the provisional period of 45 days and in case the Company is not satisfied with the Seafarer’s performance, the Company shall have the right to repatriate the Seafarer without any compensation for premature termination of contract and the repatriation expenses will be borne by the Company. The Company shall also have the right to sign off any crewmember without any compensation and/or repatriation expenses if any of the following violations committed by the Seafarer.

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a. Refusal of any work ordered by his superior in a Seafarer like manner.
b. Smuggling including but not limited to drugs or other contraband, as well as assisting stowaways.
c. Non-compliance with the Company’s rules and policy, provided same were set up and made in a Seafarer like manner.
d. Carrying on board a lethal weapon.
e. Drunkenness while on or off duty, or consumption or possession of alcoholic beverages, or bringing onboard alcoholic beverages other than in quantities given by the Company during normal, and only if it is in such Company’s policy.
f. Abandoning/Cessation.
g. Wilful loss or damage to the vessel or cargo.
h. Misbehaviour in any fashion including gambling.
i. Witchcraft, non-compliance with the local regulations of the country and/or the port of call.
j. Incompentence and/or misrepresentation of lack of possession of the skills or knowledge to carry out his duties in accordance with the rating he is employed.
k. Any other offence or violation which may be punishable under any applicable law.
l. Any breach of the Seafarer’s employment obligations.

The Seafarer has the right to resign, terminate the Agreement and be repatriated at any time prior to the expiration of the service period, subject to the continuous safe operation on the Vessel, provided that he gives the Master in writing seven (7) days prior notice of termination, unless otherwise provided by the vessel’s flag regulations. If it is specifically provided that the above mentioned period, whichever applies, must have been met before the vessel’s arrival in port.

3. Hours of duty, overtime and rest

The composition and duration of watch keeping at sea and in port will be at the discretion of the Master, and the minimum hours of duty (other than watch-keeping) shall be eight (8) hours per day from Monday to Friday inclusive, between 09:00 and 18:00 hours. Any hours of duty in excess of eight (8) on these days and any hours of duty on Saturdays, Sundays and Holidays (as defined in the applicable Collective Bargaining Agreement or ILO Conventions ratified by the flag state) will be considered as overtime. The hourly overtime rate shall be 1.5 times the basic hourly rate calculated by reference to the basic wage for each category concerned. The Seafarer shall have a minimum of ten (10) hours of rest in any 24-hour period and fourteen (14) hours in any seven-day (7) period. The above hours of rest may be divided into five (5) periods, one of which shall be at least six (6) hours in length and the interval between consecutive periods of rest shall not exceed fourteen (14) hours.

4. Baggage

Any charges for excess weight of personal baggage/parcels carried by the Seafarer, traveling to join the Vessel or during repatriation, not allowed by the ship company shall be paid by the Seafarer directly to the carrier. In the event that the Seafarer loses his baggage during his voyage to join the Vessel or during his repatriation trip neither the agency nor the Company shall be responsible for such loss or compensation. In any event, both shall assist the Seafarer to recover this loss from the carrier’s insurance policy whatever the policy may be.

5. Transfer

The Seafarer will accept any transfer to another vessel belonging or related to the Company/Managers as long as his contract is in force.

6. Advances

The Seafarer is entitled to receive advances on board the Vessel at any port where the currency transaction or movement is not restricted, up to a maximum of 50% of his wages and 100% of extra overtimes and extra works. The Seafarer agrees that a notice to the Master of the Vessel shall be given well in advance.

7. Payment of Wages

The payment of Seafarer’s wages shall start from the date that the Seafarer departs for the engagement port until the date on which the Seafarer leaves the dismissal port, provided that he is repatriated within reasonable time and with no delay due to his fault. It is hereby agreed that the above wages should be paid in US Dollars by Bank transfer and/or cash advances, at Seafarer’s request, at no greater than monthly intervals. However, due to international monetary restrictions, parity and other limitations that make the above payment impossible, it is hereby mutually agreed that the monthly account of wages will reflect any balance.

In the case of a crew transfer to any other vessel under any other flag, in accordance with cl.5 above, the monthly wages will continue to be paid for the period of transfer.
There will be no deductions of any kind in Seafarer’s wages unless provided by the relevant national legislation in force or any other flag’s restriction or statutory provision, including but not limited to any collective agreement in force. In which case, the amount will be deducted by the Master, every month or pro-rate. Final settlement of wages to be settled upon disembarkation if clause 12 does not apply.

8. Leave Remuneration and Subsistence Allowance.

Vacation leave compensation and any subsistence allowance provided as included in the Fixed Benefits herein, are payable upon disembarkation provided by the Company. The said payments for leave shall be calculated on a minimum 2.5 calendar days per month of employment or otherwise provided by any Collective Bargaining Agreement, as may be applicable, but always providing minimum ILO standards or over.


The Company will provide and pay for sufficient provisions of good quality for the crew in accordance with the international standards.


It is hereby confirmed, agreed and accepted by the Seafarer that his remuneration as stipulated in this Agreement, is considered satisfactory. The Seafarer confirms that he is solely and entirely responsible for all and any kind of charges, taxes, duties and/or contributions due in his state and/or citizen country resulting from his employment agreement and the applicable Collective Bargaining Agreement, if any.

11. Fines.

The Seafarer shall be responsible for any penalties or fines imposed on him by the competent authorities due to rule violations, deviation, or other misdemeanour. Should the manager or agent advance such payments to the authorities, same will be deducted from Seafarer’s wages. The same applies when the Seafarer causes wilfully such fines or penalties to be imposed upon the Vessel or the Company or the agent or the manager.

12. Obligations of Seafarer.

The Seafarer shall serve the Company, completely, honestly, faithfully and soberly and underlines that he/she will exercise all skill and competences as provided in their certificate of competency. The Seafarer must have a satisfactory pre-employment medical examination and answer honestly a questionnaire on his state of health. If for any reason during his service on board, his certificate/leave documents ceased or become void, the company has the right to dismiss the Seafarer without any payment or compensation.


The Seafarer is responsible for the good use, maintenance and up keep of his accommodation in accordance with the rules of the World Health Organisation and housekeeping practices. The living condition on board shall be as per ILO Conventions No. 96 or 126 or 183 and MLC 2009.


The Company undertakes to provide adequate insurance cover for sickness/injury starting from the date of Seafarer’s departure from his home country airport or port for joining the Vessel to the date of Seafarer’s return at the same airport or at any other place which the Seafarer indicates after signing off.

The Seafarer is entitled to medical and dental treatment, including hospitalization. Dental treatment is restricted to temporary reliefing after sharp pain and tooth extraction only. Spectacles are included.

A Seafarer who is hospitalised abroad due to sickness or injury, shall be entitled a) to medical attention abroad for as it is required or until he is repatriated, in accordance with section 13 below, and b) to a sick pay at a rate equivalent to his basic wages while he remains sick up to 180 days. In case of injury the sick pay shall be paid until the injured Seafarer has been cured or until a medical determination is made in accordance with his/her degree of disability whichever occurs first.

Satisfactory certificates should be submitted regularly in order to prove that the Seafarer continues to be entitled to the above sick pay.

If the Seafarer dies, whilst in the employment of the Company, through any cause, which did not exist prior to his engagement, including death from natural causes and death occurring whilst traveling to and from the vessel, or as a result of marine or other similar peril, the Company shall pay the sum provided by the Collective Bargaining Agreement, as may be applicable, but always providing minimum ILO standards as ratified by the flag state, to the 1st nominated beneficiary or legal heir and each dependent child under 18 years old, up to a maximum of 4 children, unless otherwise provided by the law of the Seafarer’s residence.

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If the Seafarer becomes permanently disabled whilst under the employment of the Company, or during traveling to and from the Vessel, or as a result of marine or other peril, the Company shall pay him the compensation provided by any Collective Bargaining Agreement, or as may be applicable, but always providing minimum ILO standards or over.

The Company undertakes to pay all state and other charges or fines imposed in connection with the death or injury suffered during the execution of Seafarer’s duties under this Agreement and in accordance with the laws of the flag state or the country where the ship is sailing except taxes (charges or fines) in the country of origin of the Seafarer. The Company shall become responsible for the hospitalization, boarding and lodging, and repatriation of crewmembers who were signed-off due to illness, accident or death.

Reversionary pay and compensation for loss of personal effects.

Compensation for loss of effects in case of death shall not exceed US $ 1,000. In case of ship’s loss or foundering, the Seafarer will be transferred to another vessel under the same employment conditions until the end of the agreed period under this Agreement.

10. Repatriation

All seafarers shall be entitled to repatriation according to flag’s laws and regulations, at the Company’s expense in the following circumstances:

i. When this Agreement expires while he/she is abroad.
ii. When this Agreement is terminated by any party for proven reasons as described herein above in Art. 2.
iii. When he/she is no longer able to carry out his/her duties under this Agreement or cannot be expected to carry them out in specific circumstances.

The transportation expenses from the airport or the port to the Vessel location at the beginning of the employment period and from the Vessel’s location back to the airport or port serving the place in which the Seafarer was hired or resides or otherwise as mutually agreed between the Seafarer and the Company, upon the termination of the employment period, shall be covered by the Company.

11. Jurisdiction

Any dispute arising, that cannot be amicably settled regarding the interpretation, fulfillment or enforcement of this Agreement and/or regarding the rights, remedies and obligations of the parties contracting hereinto, shall be referred to the courts and laws of Greece. No other authority, judicial or otherwise, courts or sections of law of any other country to have any jurisdiction whatsoever over this agreement. Violations of the terms and conditions of the Agreement, or the approved Addenda. If any, shall warrant the imposition of appropriate disciplinary or administrative sanctions against the erring party.

The Seafarer has read the Employment Agreement and Collective Bargaining Agreement, as may be applicable, and had the opportunity to review and seek advice and hereby declares that he has freely and fully agreed and accepted all terms and conditions of this employment Agreement which has been signed in two original.

It is hereby recommended for the Seafarer to be properly informed on the Safety and Environmental Policy matters regarding his employment under this agreement, by visiting the internet sites "www.classnet.com" and "www.crewsmanagement.com", and by the execution of this agreement of employment. It is hereby assumed that the Seafarer has already visited the above sites and that he has been analogously informed of all applicable policies on such matters required by the manager and the group overall.

12. Precedence

This Agreement incorporates the terms of ITF Collective Bargaining Agreement as agreed between the Company and the affiliate ITF Union Representative covering the Vessel, but always providing the minimum standards of the ILO Conventions ratified by the flag.

In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

ON BEHALF OF THE COMPANY:

Signature

NAME: [illegible]

Under Power of Attorney

THE SEAFARER:

Signature

NAME: [illegible]

Page 4 of 4

CREW-45GEN/Revision 4/ 21 May 2018
## Appendix 2: SEA signed by Zanzibar seafarers on board a ship

### SEAFARER’S EMPLOYMENT CONTRACT

**Date:** 02/09/2019  
**Company:** CMA CGM MOLIERE

**Position:** ORDINARY SEAMAN  
**Medical certificate issued on:** 27/08/2018

**Company Details:**
- **Name:** BOXCARRIER (Nt) CORP.
- **Address:** 80, BROAD STREET, MONROVIA, LIBERIA

**Ship Details:**
- **Name:** CMA CGM MOLIERE
- **Flag:** MALTA

**Terms of Contract:**

<table>
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<tr>
<th>Period of employment:</th>
<th>02/09/2019</th>
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<tbody>
<tr>
<td>Hours and Wages:</td>
<td></td>
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<tr>
<td>Basic Salary: USD 506.00</td>
<td>375.00</td>
</tr>
<tr>
<td>Overtime: USD 375.00</td>
<td>3.65</td>
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<tr>
<td>Leave: Number of days per month:</td>
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<tr>
<td>Monthly Leave: USD 135.00</td>
<td>144.00</td>
</tr>
</tbody>
</table>

**Confirmation of the Contract:**

- **Signature:**
  - Master of the CMA CGM MOLIERE

---

The document contains details of a seafarer's employment contract, including personal information, employment terms, and signature details. It illustrates the legal and regulatory framework for seafarers' contracts.
Appendix 3: Payment Slip signed by Zanzibar seafarers

![Payment Slip Image]

<table>
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<tr>
<th>Description</th>
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<th>Monthly Amounts</th>
<th>Amounts</th>
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<td>O/T Deck Position</td>
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<tr>
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<tr>
<td>Leave Pay</td>
<td></td>
<td></td>
<td>103.09</td>
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**Total Earnings:** 952.00

**Deductions:**
- Telephone costs to crew 1: 55.00
- Monthly Alot 1: 10/2018: -800.00
- Monthly Alot 2: 10/2018: -160.00
- Advance for Marine: 10/12 USD 06.00, RATE 1.3000: -50.00

**Total Deductions:** -975.00

**Balance from Last Account Due to Seaman:** 29.93

**Final Balance for Next Account:** 16.93

I, the undersigned seaman, hereby confirm and agree for all above concerning my wages and other due payments for the above period as per my employment contract and I declare that I have no other claims against the Vessel, her Owner, the Master and/or Agent.

At: AT SEA
On: 31/10/2018

Master's signature

Seaman's signature
Appendix 4: Communication in rescuing of detained Seafarer

PANHELLENIC SEAMEN’S FEDERATION
(Affiliated to Greek T.U.C., I.T.F. & E.T.F.)

Ref.: A.2649/AGT/MS

21 August 2018

To

General Secretary
Zanzibar Seafarers’Union
Zanzibar

Dear Brother X:

“MSC Ambition” – Bro Rashadi Mohamed Said

Please be advised that the ITF Secretariat in London has brought to our attention some time ago, the case of detention of Bro Rashadi Mohamed Said at Port Louis.

In light of this situation and in order to enable us to approach his Company in Piraeus, we kindly ask you to provide us in writing, on your member’s behalf, your consent which is a requirement of European Union Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement on such data.

As soon as we receive the requested consent we will take the appropriate steps.

Best regards,

Yours Sincerely,

General Secretary PNO

Inspectorate/Seafarer Support
ITF
London

47-49, AKTI MIAOULI, GR-185 36 PIRAEUS, GREECE
Tel.: (+30210) 42 92 958 – 59, 42 92 967, Fax: (+30210) 42 93 040
gram@pno.gr – www.pno.gr
Ref: JH/AGT/MS

Piraeus

26 September 2018

"MSC Ambition" – Bro Rashadi Mohamed Said

Please find attached for your information and attention a copy of an e-mail dated 16 August 2018 received through the ITF Secretariat in London concerning the above seafarer, ex crew member from you vessel "MSC Ambition", covered by a live PNO TCC CBA.

As you know, the seafarer concerned has been detained for some time now by the authorities concerned at Port Louis, USA.

Since his Union, as well as his family, are deeply concerned regarding this matter, you are urgently requested to advise us on the current state of affairs and your actions with the authorities.

Best regards

Yours sincerely

General Secretary PNO

1. Ref: JH/AGT/MS
   Inspectorate/Seafarer Support
   ITF
   London

2. Ref: JH/AGT/MS
   General Secretary
   Zanzibar Seafarers' Union
   Zanzibar

47-49, AKTI MIAOULI, GR-185 36 PIRAEUS, GREECE
Tel.: (+30210) 42 92 958 – 59, 42 92 967, Fax: (+30210) 42 93 040
gram@pno.gr – www.pno.gr
Dear Mr I -

"MSC Ambition" – Bro Rashadi Mohamed Said

Please be advised that we cannot trace your reply to our e-mail of 26-09-2018 – copy attached – despite the urgent nature of the matter.

In light of the above-mentioned, you are urgently requested to advise us by return.

Best regards
Yours sincerely

General Secretary PNO

47-49, AKTI MIAOUlli, GR-185 36 PIRAEUS, GREECE
Tel.: (+30210) 42 92 958 – 59, 42 92 967, Fax: (+30210) 42 93 040
gram@pno.gr – www.pno.gr
Appendix 5: Seafarers’ wage agreement and CBA for South Africa seafarers

WAGE AGREEMENT OF 2017/18 BETWEEN

UNICORN SHIPPING, A Division of Grindrod Shipping SA (PTY) LTD
And

SOUTH AFRICAN TRANSPORT AND ALLIED WORKERS, an affiliate of the
International Transport Federation

The below notes indicate issues discussed during the current negotiations. Any issues not covered remain as previously agreed.

1. RETURN TO SOUTH AFRICAN SHIPS REGISTER AND FLAG
   - It was agreed the SATWU would address their concerns here through the correct channels after consulting with senior officials. This would entail communication directly with the Grindrod Board.

2. TRAVEL ALLOWANCE SOUTH AFRICAN RATING
   - It was agreed that the travel allowance for seafarers joining and signing off in ports outside of South Africa would be increased from USD $ 30 to USD 40 $. This amount to be paid on board by the Master unless otherwise agreed. The seafarer will need to claim for any additional expenses then they would need to submit receipts.

3. TRANSPORT TO AND FROM LOCATION
   - A standard operating procedure was drafted and accepted as the way forward.

4. SALARY INCREASE 2017
   - An across the board increase of 7.5% was agreed and would be effective 01st March 2017. Back pay will include basic pay, overtime and any applicable allowances.

5. ENHANCED COMMUNICATION FROM THE VESSELS
   - Although the company has no intention of installing Wi-Fi on board the vessels they have already enhanced the internet connection on board by upgrading the broadband across the fleet.

6. FOREIGN ALLOWANCE
   - It was agreed that the payslips going forward would reflect that foreign allowance is included in Basic Salary.

7. NATURE OF EMPLOYMENT
   - The company has agreed to assist employees by drafting letters (when requested) stipulating the nature of the business and reassure financial institutions of the employees’ likelihood regarding contractual extensions. The company confirmed that this has been successful for employees in the past;
   - The Union has requested that a clause be inserted in the employees’ contracts which states the above;
   - The Union has requested that assistance is required regarding the provision of medical aid and provident fund to employees; and

[Signatures]
COLLECTIVE BARGAINING AGREEMENT

between

Grindrod Shipping, South Africa (PTY) Ltd

and

South African Transport and Allied Workers Union / SATAWU ("ITF")

Collective Bargaining Agreement between Grindrod Shipping, South Africa (PTY) Ltd and SATAWU
South Africa seafarers' salary scale

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Collective Bargaining Agreement between Grindrod Shipping, South Africa (PTY) Ltd and SAYAWU