

Seafarers' Criminalization

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A recent survey indicates that nearly 24% of Masters have faced criminal charges. With 50,000 ships trading internationally, and about 65,000 Masters, that is 15,600 Masters. In addition, the survey states that 8% of seafarers have faced criminal charges. Estimations indicate that there are about 1,187,000 serving seafarers, so at 8%, that is 94,960 serving seafarers that have faced criminal charges, or put another way, two crewmembers for every vessel at sea!

Most probably, there is no industry with such similar records. The details are not so clear so as to the numbers per nationality or else according to the countries & places that such indictments have taken place. If we have a look at various incidents & causes as well as their gravity, we may come across some areas where these sorts of legal actions against seafarers can be possible:

- 1- The Pollution matters are amongst the main reasons for which a mariner might be sued against. The US ports are the top of the list but other countries are not easy about it at all. It has been denoted in some papers that at times, a pollution case is treated with more severity than a case involving loss of life in the fortification of laws related in the EU region.
- 2- The other may be major collision cases and incidents where a loss of life has happened.
- 3- There are cases that the mariners might have offended some other crime related or non-related to their status as a seafarer. However, we may only consider the profession related concerns.

To be frank the main reason lies in the financial areas. If the burdens are too high then the master or crew may face some criminal charges.

How can we minimise this sort of events:

- 1- By educating & familiarizing the ship staff about the new regulations and the enforcement dates and areas.
- 2- By support & management strategies that can reduce the chances of committing offences.
- 3- By consideration of various practical aspects in an operation and somehow making the administrations accept and understand that, many incidents at sea are adventures so we must treat the personnel as victims rather than criminals.

The introduction of ISM, ISPS Code & MLC can, from a perspective, help the seafarers in dealing with the criminal charges.

Here we must look into various aspects that regulations can assist the mariners:

- 1- The ISM code has been devised to improve safety of life & ship and protection of environment. The requirements of the code hold the management very much responsible in confronting mishaps. In many recent cases, the ship's owner and or manager have also been fined and held liable for the consequences of any neglect or non-abiding by the regulations.
- 2- The high costs of crew errors, which are the root cause for majority of the accidents, will urge P&I clubs to require their members to hold those responsible for crew selection more accountable. That is the manning companies & crewing agencies. In fact, the problems remain but who is responsible would change. As the pressures increase due to difficulties in finding crews, ship-owners must ensure that they knew the level of competence and health of the crews that are selected for their vessels. Having an understanding of where the medical certificates are issued, the background of the crewing agent and the level of training and competence of the crew are important. MLC requirements and involvement of seafarers' organizations can be taken into advantage here. Nobody wants so many criminalization issues against mariners and the labour organizations want it the least. Therefore, they should also assist in dealing with the gaps as existent.
- 3- The company procedures play a vital role here. Every effort should be made to ensure that they are not onerous or unclear. By doing so one must avoid being very simplistic & trying to teach the grandmothers "how to boil eggs". But the same old experienced guys going to the polar regions or loading cargoes of unknown/hideous dangers, must be told every detail and work-out through check-lists as appropriate.
- 4- The company management and personnel communication is to be highlighted as ever. This is a requirement of management codes and as we investigate more accidents, we come to appreciate the value of effective communications on board as well as ship-shore relations more grandiosely.
- 5- The ISPS matters & regulations have been areas where the seafarers are criminalized frequently. The pre-conviction of mariners, which has caused many ports in restricting them from going ashore or even walking on the quayside, is the obvious setback. From another view it has created a framework within which one can easily identify who is responsible for employing the ship, her crews and so on.

Simple Guidelines to decrease the number of seafarers facing criminal charges:

- A. A proper Safety Management System. This should be ensured by various sources, even by the P & I clubs who indemnify the owners for whatever conditions,**
- B. Clear & Concise Procedures for key ship board operations,**
- C. Ensuring good Communications between Ship & Shore & Aboard ships,**
- D. Having Owners , Technical & Commercial Managers & Crewing companies share Responsibilities & be accountable as appropriate,**

- E. Adequate Training as per the STCW & ensuring the on-board Familiarization is done in the best Possible & Practicable Manner,**
- F. Endeavour to upholster the understanding of all involved in the shipping industry that the forfeited scenarios of many accidents are nothing but Adventures, which are at many occasions not easily avoidable and consequences should be borne by all benefiting from.**