

# **Strengthening Social Protection for Migrant Workers: A Regional View of Issues and Reforms in the Sea-based Industry**

Isabelo A. Samonte\*

## *Abstract*

*This paper argues that changes in the employment structure in the sea-based industry calls for increasing social protection for workers in the maritime sector. While the author largely focuses on experience of the Philippines and Filipino seafarers, he also points out that maritime workers in other Asian countries are affected by similar challenges as the Asian region is now the largest source of seafarers for the world's fleet. Social protection for workers in the industry may be possible through the promotion of international conventions, greater stakeholders support, and inclusion of social protection provisions in bilateral and multilateral agreements.*

## **Introduction**

Long before globalization became a universal issue, the world shipping industry had already evolved into a unique structure that made it complicated for sea-based workers to access social protection.

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\* Volunteer Resource Person and Consultant, Apostleship of the Sea (AOS); Secretary General, All Christian People of the Sea and Seafarers Organization of the Philippines (ACPOSSOP); and Program Manager, Market-Based Socially Just Environment (MBSE) Program, AIM Policy Center.

The structure of the world shipping industry allows for various systems of flexibilities. This leads to complicated issues that need reforms in countries and regions in order for workers to be adequately covered by social protection.

A focus on Asia is relevant since the region is perceived to be the largest source of supply of seafarers for the world fleet. The Philippines and India are perceived to be the lead seafaring countries from Asia. For the seafarers and other maritime-related jobs in the region, it is critical to look at the factors, issues and the ways on how their social protection could be strengthened.

### **Scope of Social Protection**

The seafarers and the migrant workers, like the rest of the employed workers in general, should be entitled to social protection. This mainly refers to the policies on social security that traditionally would include social insurance and social welfare. It also includes other programs that may be identified by respective countries, particularly with regard to assistance to vulnerable groups. Social insurance programs, like those of other overseas workers, may include health care, sickness, injury, disability, maternity, old age and other special programs. Social assistance and welfare programs, however, usually cover the risks and assistance associated with unemployment, family allowance, disability, survivor benefits, and other contingencies. An International Labour Organization (ILO) study observed that social security programs in the region may be of various types, such as social insurance, universal coverage, provident funds, individual private accounts, employer-liability and social assistance (Tamagno, 2008).

This paper focuses mainly on the social protection of seafarers and other crew members who work on ships and other crafts, in ports, and in other maritime jobs, including those who work in other sea-related jobs, e.g. fishers and those working in yachts; off-shore installations such oil rigs/platforms; in-land and off-shore water barges, roll-on/roll-off (RO-RO) vessels and super-ferries, towing and tugboats and others.

It is difficult to come up with a realistic picture of the social protection of seafarers at national, regional and global levels. The difficulty is due to the very complex migration situation. There are factors to be considered in the sea-based industry, such as the impact of new laws, conventions and changing policy directions. The studies conducted

by Konrad-Adenauer Stiftung (KAS)/Asian Institute of Management (AIM) Policy Center (Ofreneo, Samonte, Soriano & Prieto, 2009) cited the difficulty that government agencies may encounter with the passage of new laws such as Republic Act No. 10022 (An Act Amending the Migrant Workers and Overseas Filipino Act of 1995), which structurally affected the agencies in the implementation of new programs. Migrant almanacs have provided us a picture of the migration situation, but still lack data on sea-based workers, particularly with regard to social protection. Many of the agencies involved in the overseas program encounter challenges related to the need for database indicators on social protection of seafarers and maritime-related jobs.

### **Greater Relevance for Social Security Protection in the Maritime Sector**

*Greater relevance amidst rapid growth of maritime industry.* Since the world seaborne trade is a main player in global economic growth, the social protection of jobs in maritime sector is of great relevance. The seafarers that manned the world merchant fleet are responsible for almost the entire bulk of global trade. The number of crew members has long since surpassed the million mark. The rapid growth of the shipping industry led to the spread of ship registers (government or private agencies which registers shipping vessels) in over 150 countries. Countries with ship registers have the obligation to cover at least the minimum standards in terms of working conditions, including social standards.

The shipping growth has outstripped the supply of trained seafarers and officers. This could be seen from the survey of the Deloitte survey (2010) involving 1,125 vessels. Further, the shipping industry has undergone tremendous changes since 1959, in the years of Inter-Governmental Maritime Consultative Organization (IMCO). In comparison, in the present era of the International Maritime Organization (IMO) as UN-specialized agency on maritime field, the shipping industry faces greater flexibilities brought about by globalization. Notwithstanding modern technological advances, however, including experiments on robotics against pirates, the creation and use of unmanned ships is still farfetched. In the booming tourism sector alone, passenger ships and cruise ships still require the warmth, people-skills, and loyalty of crew members.

The question then is: how does the shipping industry respond to the plight of the workers? In 2007, no less than Pope Benedict XVI made

the following prayer intention: “That the Lord may protect sailors and all those involved in maritime activities” (Apostleship of the sea, 2007). According to the same source, during the AOS World Congress in 2002, the Holy Father resolved that “globalized maritime industry be given a human face.” Even the UN has echoed this need for a “human face”, including policies on social security. Now is the time for countries to consider the relevance of social protection in the maritime industry.

*Greater relevance in the region.* There is more reason to strengthen social protection for seafarers in Asia. Shipping competition has become intense, with over half of the world’s 25 shipping lines or more than half of the world’s top 50 were based in the region (ITF Seafarers Bulletin, 9/2005). The number of ships in Asia and Pacific has steadily increased further driving demand levels upwards. On the one hand, there is a high demand of seafarers from Asia and Pacific while on the other hand, there are running shortages from the rest of the world fleet. For these reasons, the Philippines should continue to strengthen its efforts in maritime education and training. Countries in Asia are also becoming more involved in the International Maritime Organization’s (IMO) 40-member council. According to IMO News Report (2010) five countries from Asia, including China, Japan, and Korea were elected in the category of 10 States with largest interest in shipping services; two countries, Bangladesh and India were elected in the category of 10 States with the largest interests in international seaborne trade; and five countries: Philippines, Indonesia, Malaysia, Thailand and Singapore have been elected in the category of 20 States with special interest in maritime transport navigation (IMO News, 1: 2010).

In terms of supply of seafarers, the Deloitte (2010) survey showed that the Philippines and India supply about 45 per cent of the officers and 90 per cent of “ratings” or lower level crews (deck heads, cooks and oilers). The survey showed that Asia contributes about 60 per cent of ratings. The growing competition for seafarers between the Philippines and India could be perceived from the survey. While survey data showed that the Philippines dominated the supply of officers in Europe, with 34 per cent to India’s 17 per cent, Europeans were also strongly trying to supply their own region’s seafarers. At this juncture, it would be interesting to look at the impact of the European regional integration on social protection for seafarers. Would there be any opportunity for bilateral or multilateral agreements? Can this be a model for Asia or the ASEAN? In the other regions, such as North America, the Philippines supplies 35 per cent to

India's 16 per cent, with competition from Russian which supplies 10 per cent. In addition, the Philippines supplies 30 per cent to India's 24 per cent in South Africa, Middle East and Asia Pacific. The Philippines may want to explore the possibility of leveraging against its position as the top supplier of seafarers in the world fleet to make social protection as a component of bilateral agreement with the key countries and registers.

### **Main Policy Issues on Social Protection for Seafarers**

*The issue of uniqueness of deployment for seafarers.* It is known that our seafarers are handled by the Philippine Overseas Employment Administration (POEA) and regarded as Overseas Filipino Workers (OFWs). An ILO study conducted by the head of a prestigious Canadian institution, Edward Tamagno (2008), stated that seafarers might not strictly fall within the usual definition of the term migrant worker. He said:

*There is one group of workers who are excluded from the definition of migrant workers by the UN Convention but who are usually included in social security agreements. These are seafarers employed on board a ship registered in a country of which the seafarer is not a national and to which he or she has not been admitted as a resident (Tamagno 2008)*

In view of this, one may ask: *In addition to migrant laws, would maritime countries need a distinct class of legislation for seafarers?* It remains to be seen how countries would strategize for maritime advantage. The uniqueness of the deployment of seafarers was underscored by Tamagno (2008): instead of country to country deployment, the mode was from country of origin to a flagship representing a country. Referred to as the "Flag Rule", Tamagno cited that people working onboard an ocean vessel flying a country's flag are subject to that country's social security provisions. The issue is whether flag state provides for social protection or not, and if so, whether the coverage is sufficient.

Tamagno (2008) cited the similarity of seafarers and migrant workers, since he considered the work on ocean-going vessel not materially different from migrant's work in receiving countries. He

observed that both workers encounter the same barriers or restrictions in social security protection.

*The complications in the structure of shipping.* Today, the enforcement of social security laws is perceived to be weak among ships flying the so-called “flag of convenience” (FOC). The FOC is a system of “flagging out” (change of a ship’s registry) from a national register to another country as second register (or flag of convenience). As early as the 1970s, the adverse impact of the second register was already observed by the late POEA Department Administrator Cresencio Siddayao, the man who first helped design the Filipino seafarers’ overseas deployment. His observation then was that the system resulted in some seafarers failing to benefit from the national social security benefits of either of the ship’s country of registration (Siddayao, 1993).

In the flag rule, important highlights that could serve as a fall-back were (Tamagno, 2008):

- Social protection of seafarers should be adequately covered in the country of residence or in the country in which the employment contract was concluded.
- A double coverage may occur in the country of origin or hire.
- The criteria set in social security agreements could be the determining factor in resolving problems.
- Any person residing in the countries that are party to the agreement may be subject to the social security laws of the country of residence.
- In the absence of social security laws in the flag ship and the country of hire (not from country of origin), the social protection of the country of origin will prevail.

If the Philippines adopts internationalization of register and allows Philippine register for foreign vessels, the social protection for all parties to the agreements would apply exclusively if Filipino seafarers would be on board and recruited in the Philippines as country of recruitment and of residence. In the case of double coverage, our jurisprudence, however, allows beneficiaries to obtain best possible terms.

In light of the need to strengthen the social security policies of the Philippines as country of origin, the social protection reforms could be based on the ILO Conventions/Recommendations and the enabling

legislations. It would be recalled that the social protection in the Philippines is covered by the Social Security Law (R.A. 1161 and R.A. 6111 and all amendments including Presidential Decrees No. 24, 65, 177 and 273). In 1992, coverage was expanded to farmers, fishermen, household workers and OFWs. A significant phase of social protection of OFWs was embodied in the Memorandum of Agreement (MOA) of the Social Security Systems (SSS) and Department of Labor and Employment (DOLE)/(POEA), which could be further strengthened through reforms. The ILO Convention No. 165 on Social Security for Seafarers was completely ratified by 2004. Other mechanisms to strengthen social protection could be through CBAs between unions and shipping lines.

### **Impact of Key Practices that Affect Social Protection of Seafarers**

Among the many factors surrounding the social security protection of migrant workers, the seafarers were mainly affected most by the peculiar structure of the shipping industry. The internationalization of shipping registration, like the so-called “second register”, has bearing on the social protection of seafarers.

#### *The internationalization of ship registers*

The move to internationalize ship registration simply allowed the “flagging out” of ships to be registered as a “flag ship” of another country. The system is referred to as “second register” and is also called “offshore registers” or “international registers”. Tough shipping competition led shipping states to establish registers that allowed flexibility. The growth of second register increased to 24 in 2001, while another batch of 18 were added in 2010. Today, the number has increased to over 50 second registers. Unfortunately, with the second register there emerged the so-called “Flag of Convenience” or FOC. In more recent years, the International Transport Workers Federation (ITF) listed about 32 registers that were considered FOCs. In 2009, the FOCs of Panama, Liberia and Marshall Islands were almost 4 per cent of the world fleet by Dead Weight Tonnage (DWT). The top ten FOCs account for 55 per cent of world’s DWT, of which 61 per cent were bulk carriers and 56 per cent oil tankers (Wikipedia, n.d.).

Many of the complaints on FOCs referred to the compliance for minimum standards, including social standards. The “flag ships” were linked to the working conditions of seafarers. This was reported in the ILO’s 29th Session of the Joint Maritime Commission (1998). It noted that the UN Conference on the Law of the Sea (UNCLOS) has asked the states to take measures pertaining to working conditions as provided by international instruments. The UNCLOS has provided that: “Every State shall effectively exercise jurisdiction and control in administrative, technical and social matters over ships flying their flags” (ILO, 2001, p.18). In the same report, the UNCLOS called for a “genuine link” between the ship and the “flag state”. Thus, the UN Assembly asked the Food and Agriculture Organization (FAO) and IMO to provide definition of “genuine link” in the context of fisheries on one hand and of shipping on the other hand.

The lack of coherence in maritime policies needed more rationalization of oversight activities for flag states. The former ILO Governing Body Chairperson, Ms. Nieves Confesor, at one time called for support of the upgrade of FOCs to attain decent working condition and social standards. Today, similar moves could provide opportunities for bilateral agreements and/or initiatives to sufficiently fill the gaps with relevant mechanisms for cogency of policies particularly on social protection.

The ILO Final Report (2000) cited some instances when Port State control forced attention by the registers to IMO safety and environment but not sufficiently on social protection. The work on fishing under ILO Convention No. 188 and Recommendation 199, for instance, has highlighted the provision of social security. This move could really help the tens of millions of fishermen worldwide deprived of social benefits as fishing is one of the hardest occupations, with difficult working and living conditions. The Convention would entitle fishermen to the same decent working conditions, safety and social protection that other workers have a right to. Recently, ILO Conventions has mandated social protection for land-based workers, such as decent work for domestic work as in ILO Convention No. 189 (2011). It would be appropriate for the various players of the maritime industry to formulate guidelines consistent with outcomes of social dialogues.



### *Bareboat chartering*

“Bareboat chartering” simply means hiring a ship or boat in which the renter would take care of the crew. Thus, depending on the renter, the system of chartering ships mainly in bareboat vessels contains gray areas. The social security benefits would be dependent on the charterer. This could be another source of problems affecting the social protection of seafarers. The practice of bareboat chartering abounds in cruise-shipping in view of Asian/ASEAN tourism boom. Cruise-shipping was also a pattern in other growth areas or triangles and other favorite destinations in other regions such as in the Caribbean. Besides cruise ships, yachts have also grown into super-yachts and mega-yachts, ranging from 300 to 500-foot long, and some with about 30 crew members. In view of the growth of tourism, the needed policies for social protection of seafarers may be unable to keep up with the boom in cruise-shipping and yachting.

In the Philippines, bareboat chartering was decreed in 1975. Hence, dual registry of vessels was allowed in the Philippines. Foreign-owned vessels could be registered in the Philippines if chartered to a Filipino national or a Filipino-controlled company. Along this line, some issues in social protection have already been reflected in our jurisprudence in obtaining best possible terms for the beneficiary with vessels of dual registry in the Philippines and in a foreign country. It would be significant to look at the policy gaps in bareboat chartering to provide policy reforms and mechanisms to ensure social protection. In regional policies, the Philippines must look at the ASEAN Framework Agreement for Trade and Services (AFAS) for trend in reduction of barriers. In view of ASEAN integration, the reduction of barriers would need for countries to look for safeguards and safety nets. In AFAS, for instance, the Philippines has allowed bareboat chartering for companies with 40 per cent foreign equity provided approved by the Maritime Industry Authority (MARINA). Since the ASEAN roadmap has relaxed barriers in priority areas like tourism, this could increase foreign equity beyond the 40 per cent, with certain timelines up to 70 per cent. The Philippines, for instance, would need safeguards in bareboat chartering. A safety net of social protection for seafarers and crew on cruise ships and yachts, when chartered by tourism-related establishments such as travel lodge and inns in resorts, could be identified as new sub-sector open for commitment with other countries in the ASEAN.

*“Contractualization” in seafarers*

The main problem of seafarers is continuity of employment. Seafarers are considered “contractual workers”, with a fixed period of employment set by the standard employment contract. The short contract period was conceived from the peculiar nature of the maritime job. Jurisprudence has recognized the peculiar nature of the work. The contractual status of seafarers however has affected their social protection which has adverse impact not only on the seafarers but on their families as well. It is the period of a seafarer’s contract on board a ship that is covered by insurance until his return to the country-of-hire. As a contractual employee, the seafarer may have a contract for three, six, nine or 12 months, but usually nine months is the average. In a series of weekly social consultations and dialogues with seafarers at Apostleship of the Sea (AOS) Stella Maris Center, the following schemes were discussed:

- 13-month contract to work six months then one month vacation and another six months work (referred to as “6V6” or “6-1-6 scheme)
- nine-month contract to work one month then one month vacation and another seven months work (referred as 28 days on and off scheme)
- nine-month with option plus or minus three months (referred as “mutual” scheme)

The seafarers cited advantages of nine-month contract with plus or minus three months (mutual system). This system would allow for a maximum of 12 months with no risk of informal extension. The system would also allow a minimum of six months with no risk of violation and penalty for unfinished contract.

Extension of contract made on the spot on board a ship, if done on an informal basis, might run the risk of neglecting social protection. Rather than resorting to extension of contract, most seafarers favored a system of regular re-hiring. On the other hand, some experienced and skilled seafarers preferred to have freelance status to give them the freedom to choose preferred ships and routes. Shorter contracts are preferred by seafarers who were a) starting a family; b) freelance and with previous experience; and c) assured of re-deployment. Longer contracts, however, are the options for seafarers, whether new or old, who are determined to earn money to build capital or those plying on board ships with better

working conditions like cruise ships. The changes in the shipping industry, however, raised concerns on the length of a seafarer's tour of duty. Some discussions with seafarers, for instance, have raised protest on increasing working hours and only allowing for shorter, fixed-period of overtime. Under decent working conditions, excessive working hours should be avoided to reduce fatigue by ensuring adequate rest, as specified by ILO Convention No. 180 (hours of work and manning). Even if not ratified by the country, if the Convention and protocol are enforced, the provisions are subject to Port State Control.

The emergence of ship-management companies servicing a number of shipping lines gave rise to a new structure of employers. Studies, however, looked into a system of re-hiring to be rationalized alternately with a) training and/or upgrading; b) vacation to give a period of relief; c) a waiting period with stand-by fees; and d) favored assignment to cruise ships. Social protection policies could be studied in relation to applicable mechanisms based, for instance, on international convention on pension plans. The re-hiring system could lead to career development that provides opportunity to upgrade seafarers' skills and boost their value as an asset to the company. There were shipping firms that wanted the seafarers to remain loyal to the company and/or to the flag. Loyalty is necessary for national security of the state and flag, particularly during conflict. However, as contract-based workers, the seafarers and their families may not benefit from social protection such as insurance while on vacation and old-age benefits or pension.

There were already companies that promoted career-type development. In his paper before the International Seafarer Family Convention, Rear Admiral Adonis Donato (2011) related the OSM Group's experience in which health insurance was extended to seafarers while on vacation. He said that the seafarers who stayed long with the company were provided with OSM pension plans or retirement pay, with no contribution from the seafarers. It was along this line that the issue on the applicability of ILO Convention No. 71 on pension plan was raised during an international forum, and to take the issue further, the prospect of seafarers having life-time membership in the Overseas Workers Welfare Administration (OWWA).

## **Promoting Social Protection of Seafarers**

The social protection of seafarers could be promoted through policies like international conventions, structurally through institutions, and programs through services.

### *Relevance and applicability of international conventions*

The international conventions that should be considered relevant are those from the UN, ILO, IMO, Joint Maritime Commission (JMC) and UNCLOS. Today, the most significant is the ILO Maritime Labour Convention (MLC) that consolidated some 67 international conventions of ILO and IMO. The Maritime Labour Convention (MLC) of 2006, referred to as the Seafarers' Bill of Rights, has provided for social security protection under "Title 4 - Health Protection, Medical Care, Welfare and Social Security Protection." Under this heading, there is a regulation for seafarers and dependents to be covered by social security. ILO Convention No. 147 on Merchant Shipping has also prescribed social security provisions.

The most significant ILO Convention for social protection of seafarers, however, was ILO Convention No. 165 on Social Security (Seafarers, revised). The ILO Convention was sponsored in the Senate by the late Senator Blas F. Ople in mid 1990s but the ratification was only completed in nearly mid-2000. One of earliest observations in the 1990s was made by the pillar of the Filipino seafaring industry, the late Cresencio Siddayao (1993), when he observed that ILO Convention No. 165 (1987) Social Security (Seafarers) has updated two earlier seafarers conventions, which were:

- ILO Convention 56 - Sickness Insurance for Seafarers (1936);  
and
- ILO Convention 70 - Social Security (Seafarers) (1946)

Sidayao (1993) further cited that Convention No. 165 has fixed the level of protection based on the Minimum Standards of ILO.

- ILO Convention 102 - Social Security (Minimum Standards) (1952)

He also noted then that Convention No. 165 has adopted the higher standards of benefits based on:

- ILO Convention 103 - Maternity Protection (1952);
- ILO Convention 121 - Employment Injury Benefits (1964);
- ILO Convention 128 - Invalidity, old age, and survivors benefits (1967); and
- ILO Convention 130 Medical Care and Sickness Benefits (1969)

He considered Convention No. 165 to have determined shipowners' liabilities in addition to social security benefits and provided social security protection for foreign or migrant seafarers based on:

- ILO Convention 55 - Ship-owners' liability in respect of sick and injured seamen.

What was not included was ILO Convention No. 8 and Recommendation No. 10 (1936) on unemployment benefits for seafarers.

During past consultations on social security protection, one of the contentious issues revolved around retirement age, that is, whether to adopt a retirement age of 40 or 45 years old. The debates were on comparability with other countries or flag states, or whether there was a possibility to cover this in bilateral agreements particularly within the ASEAN. Another issue was how to approach a situation wherein the flag state or other countries would have superior social security schemes. The possibility of schemes like totalizing and integration may be considered. These are further discussed in the next section.

Other conventions for sea-based industry were the ILO Convention No. 188 and Recommendation No. 199 on Fishing. This latter convention specifically mandated for workers in fishing to have social security benefits to guarantee decent work in fishing.

It would also be relevant to look into the various systems of inspection in the enforced international conventions by governments, by international unions, or other deputized organizations, and the Port State Control, at country, regional or international levels.

#### *a) Sufficiency through Port State Control*

The implementation of policies could enhance sufficiency of social protection through Port State Control. The Memorandum of Understanding

(MOUs) in Paris, Tokyo, Mediterranean, Caribbean, Indian Ocean and other regions could be explored to include services such as inspection, banning and detention to pressure ships to maintain (social) standards. The harmonization and oversight rationalization of Port State Control could be explored to support social protection. The Paris MOU has 27 participating maritime administrations. The Tokyo MOU has 18 participating countries. Among the major countries in Asia are China and Hong Kong, Japan and Korea, and in the ASEAN are the Philippines, Singapore, Thailand, Malaysia, Indonesia and Vietnam.

*b) Acceptability by stakeholders*

The ILO, IMO, JMC and other UN agencies, through their conventions, studies, and technical cooperation programs, can help to promote social protection.

The ILO, as an autonomous UN agency for labor and social matters, is in a key position to push for social protection of people in particular the maritime workers. The ILO has adhered to the tripartite representation but allowed social dialogues beyond the traditional groups. Similarly, it has adopted Conventions and Recommendations for ratification of governments to set the international labor and social standards. Structurally the ILO has a Joint Maritime Commission (JMC) that undertakes consolidation of conventions in the maritime industry and a Committee of Experts on the Application of Conventions and Recommendations, which acts as an evaluator of a country's application of international labor standards according to the convention that have been Ratified by that country.

The other stakeholders are trade unions led by the International Transport Workers Federation (ITF), which has an inspectorate system, and the various ITF centers and affiliates. The federation also has the ITF Seafarers' Trust. Other stakeholders are non-government organization (NGOS), Civil Society Organizations (CSOs), and faith-based organizations like Apostleship of the Sea (AOS), International Christian Maritime Association (ICMA) and Committee on Seafarers' Welfare (ICSW), all of which have various centers and Port Chaplaincies worldwide. All of these organizations should form a network to campaign for social protection of seafarers. Port chaplaincies of faith-based organizations, for instance, could provide moral support on issues of discriminations concerning access to occupational pension funds. Majority of complaints made by

seafarers to Port chaplaincies, for instance, were on issues of abandonment, contractual problems, safety and health such as illnesses and diseases, and living conditions, which mostly fell under the purview of decent work and living conditions. The AOS provides Christian and pastoral care and port welfare facilities such as, for instance, port recreation, family communication, dormitories/accommodation and value formation, and provides relief from stressful and dangerous work at sea. Mostly the work of the AOS is based on the ILO Conventions/Recommendation on Welfare at Port and Sea.

Other welfare programs are maintained by government agencies such as the OWWA and the Philippine Overseas Employment Administration (POEA). Another government agency is the MARINA, which could play a key role in the support of social protection and welfare facilities. The lead government agency involved in social protection is the Social Security System (SSS). The other agencies are the PhilHealth for health care, and the Pag-IBIG Fund for housing. Proposals for centers at ports were also made with regard to social investments for old-age facilities such as adult daycare centers and therapy centers for seafarers. Ship-owners and seafarers' organization also provide welfare facilities and services. Trade unions have performed well in covering social security protection in CBAs with foreign vessels. Seafarers' unions like Associated Marine Officers' and Seamen's Union in the Philippines (AMOSUP) have health provider services, hospitals or clinics for seafarers, they also conduct pre-departure orientation and post-arrival debriefing services. Other organizations of seafarers and their families and of manning agencies have their own welfare programs, such as the Seamen's Wives of the Philippines, Inc. (SWAPI) which has long been involved in social programs, including livelihood and other enterprises.

### **Policy Reforms for Social Protection of Seafarers**

#### *a) Bilateral/multilateral framework: ILO and ASEAN models*

An ILO study authored by Tamagno (2008) cited an ILO model for social security agreements based on ILO Convention 167 (1983) on Maintenance of Social Security Rights Recommendation. Tamagno (2008) identified possible bilateral agreements with ASEAN countries dealing with old age, invalidity/disability, survivors taking into account

the existence of social security systems; provident funds; and social insurance and provident funds (see Box 1).

Box 1: Possible bilateral agreements between ASEAN countries considering existence of social insurance, provident funds, and social insurance and provident funds.

<p><u>On Social Insurance</u></p> <ul style="list-style-type: none"><li>• Philippines and Thailand</li><li>• Philippines and Vietnam</li><li>• Thailand and Vietnam</li><li>• Thailand and Lao PDR</li></ul> <p><u>On Provident Funds</u></p> <ul style="list-style-type: none"><li>• Singapore and Brunei</li><li>• Singapore and Indonesia</li><li>• Singapore and Malaysia</li><li>• Malaysia and Indonesia</li><li>• Malaysia and Brunei</li></ul> <p><u>On Social Insurance and Provident Fund</u></p> <ul style="list-style-type: none"><li>• Philippines and Singapore</li><li>• Philippines and Malaysia</li><li>• Philippines and Indonesia</li><li>• Philippines and Brunei</li><li>• Thailand and Brunei</li><li>• Thailand and Singapore</li><li>• Thailand and Malaysia</li><li>• Singapore and Vietnam</li><li>• Malaysia and Vietnam</li></ul>
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Source: Edward Tamagno, "Strengthening Social Protection for ASEAN Migrant Workers through Social Security Agreements" (ILO, 2008)

It is still possible, using ILO models, to explore a minimum platform to serve as a core social security protection for multilateral ASEAN agreement. Once a multilateral platform for ASEAN is established, bilateral agreements could follow. Also, agreements and bilateral agreements between ASEAN, ASEAN countries and other countries like with China, Japan and South Korea could be explored.



*b) Rationalization by equality of treatment: Reciprocity, Portability, Totalizing and Integration Schemes*

Under the equality of treatment principle, rationalization could be explored for the purposes of agreements for applicable schemes such as “reciprocity”, in which the mechanisms of another country or countries could be comparable. Portability could also be explored in cases of differences in schemes between countries. On the scheme of “totalizing”, the migrant workers are allowed to become eligible for benefits in the system of another country by compounding together or “totalizing” the years of coverage in all the countries the migrant has worked. Then there is the integration scheme. In 1987, the Philippines strongly advocated before the 74th Maritime Session of ILC the adoption of “residence criterion”. This would cover social security of seafarers at country of residence rather than the flag criterion.

There are also other factors in deployment countries to consider in rationalization of social security benefits. These are the granting of residency rights in some countries, such as permanent residency in Hong Kong, Singapore, UK, USA and other countries. Some countries, however, have adverse policies; in the Middle East, for instance, nationalization or indigenization resulted in such policies such as “Saudization”, “Kuwaitization” or “Emeritization”, etc.

*c) Initiatives to fill gaps of bilateral agreements (social reinsurance and other strategic mechanisms)*

The search for mechanisms that could be strategically applied to fill gaps in social protection, such as, for instance, in bilateral agreements, led to some schemes that included micro-insurance. There was an inventory conducted by ILO of some 40 micro-finance schemes in the Philippines. The schemes included cooperatives, mutual benefit and micro-finance groups, health service providers organized by trade unions, private insurance, local government units (LGUs), NGOs, community-based organizations (CBOs), and others (Ibid.). The studies sponsored by World Bank and ILO on social re-insurance, however, were significant because it led to a pilot project in the Philippines.

*Review of Social Reinsurance Pilot in the Philippines.* The World Bank and the ILO have in the past conducted pilot studies in the Philippines

towards social reinsurance. The project, headed by international social reinsurance authority Dr. David Dror, developed a proposal for reinsurance in micro-health insurance in the Philippines in early half of 2000. Dr. Dror collected data in La Union, Negros Oriental, Davao City, Guimaras and Quezon City, and conducted field works in Iloilo and several other locations. Although the project was not concluded due to funding requirements, Dr. Dror confirmed his collection of evidence that would justify the efforts. He has not yet published the significant analysis of how social reinsurance could be implemented in the Philippines. Dr. David Dror's book entitled *Social Reinsurance: A New Approach to Sustainable Community Health Financing* (2002) cited the pilot project in the Philippines. It was highlighted in the book in Part 4, entitled "Toward a Reinsurance Pilot in the Philippines". He has published some of his works on the impact of micro-health insurance and the equality of insured versus uninsured in the Philippines.

Micro Insurance Academy (MIA), located in Germany, India and China, were founded and chaired by Dr. Dror. The MIAs were established for the education and training of all units involved in social reinsurance. The social re-insurance would cater to low-income, rural poor and other target populations at poor locations. Dr. Dror has shown excellent understanding of what works and what does not work, and can easily design the solution. The concept of micro-insurance could help close the gaps in bilateral health integration. A follow-up project on Dr. David Dror's Social Re-insurance pilot project in the Philippines could be looked into with support from international agencies like IFC/World Bank.

### Challenges of Social Protection through Strategic Mechanisms

- a) **Social Dialogue.** It is important to have social dialogue at the regional and international levels through institutions like ILO, IMO, Joint Maritime Commission and other stakeholders such as unions and shipping lines. It is also important to strengthen the industry councils to settle problems in pension liabilities.
- b) **Rationalization of oversight activities.** It would be important to have oversight bodies at supervisory levels to promote coherence of policies for flag states, country and international registers. It would also be important to improve governance in regional and international levels.
- c) **Improved collective bargaining process.** The CBAs of unions should be protected by legislation (both collectively bargained

and not collectively bargained). Support the approval of ITF activities only if collective agreement is compliant to minimum standards, including social standards. Review and conduct researches to improve POEA contracts.

- d) **Implementation of ILO standards.** There is a need for policy reforms in the social security legislations in the migrant laws and the amendments (RA 10022) to cover seafarers. The reviews should include identification, policy formulation to fill the gaps in the social protection of international ship register. There is a need to strategize the reporting of social protection for seafarers. The inter-agency reporting mechanisms system should be strengthened for ratified ILO Conventions to support the ILO Committee of Experts on the Application of Conventions and Recommendations (COEACR). The schedules for instance for regular reports of ILO Conventions on social protection were:

- Year 2010: a) C23 – Repatriation of Seamen  
c) C165 – Social Security (Seafarers)  
d) C179 – Recruitment and Placement of Seafarers
- Year 2011: e) C17 – Workmen Compensation (Accidents)  
f) C118 – Equality of Treatment  
g) C157 – Maintenance of Social Security rights
- Year 2012 h) C 143 – Migrant Workers (Supplementary)

- e) **Social investments.** Social investment programs could be initiated. Examples of social investments in welfare facilities are hospitals, clinics and diagnostics, reintegration centers, rehabilitation centers, health restorative centers, nutrition centers, and recreational facilities, senior citizen centers, adult day care centers, and nursing care/care-giving centers, home care services for old-age beneficiaries. Examples of social investments in pension is participation in selecting social criteria for pension fund investment or creating social foundations to support cooperatives, mutual savings, housing assistance, and others. Many of these services are indicated

in ILO Convention 156 and Recommendation 165 on The Workers with Family Responsibilities (1981).

## Conclusions

The important thing perhaps for seafaring countries would be to be able to read the protectionist scheme of ship-owning countries and flag states, and become flexible in their strategy for globalization. The best safeguard for seafarer-supplying countries is to ensure social protection. The safety nets in terms of social protection could be the next convergence in migration against flexibilities as globalization 1.0 becomes globalization 2.0, signifying the shift from de-industrialization to re-industrialization.

The social challenge of globalization for the maritime sector is the prevention of protectionism in the shipping industry. This could be done through possible bilateral/multilateral agreements for seafarers to be socially protected from the systemic shifts of re-industrialization to the expected jolts that may come further down the uncertain road of economic activity in countries or regions.

It would be important to conduct policy reviews and formulate policy reforms for migrant and seafarers' legislations based on international legislations and agreements. For instance, one of the laws that should be reviewed is the amendments to Migrant Workers Law (RA 1002).

Policy reforms through bilateral/multilateral agreements must consider applying the equality of treatment principle in social security through rationalization schemes (i.e. reciprocity, portability, totalizing and integration). Strategic mechanisms should be explored to strengthen social protection through social dialogues, improved process of collective bargaining, implementation of labor standards and social standards. Policies should support improved port state control and supervision of oversight activities.

Policy reforms should be explored to fill the gaps in the bilateral agreements through private sector initiatives such as micro-insurances/ social re-insurance and other social and welfare services. There are initiatives already being undertaken, and it is important to review and adopt policy reforms. It would be time for public agencies and private enterprises to go into social investments for migrants, seafarers and their families for welfare services.

Technical cooperation and assistance from international organizations like ILO, IMO, World Bank, ADB and other multilateral organizations could be explored. The quest for social protection for seafarers and other maritime workers remains uncertain in this globalized world, but it must be achieved to soften the blow for everyone. Efforts have been attempted throughout many a tough period, but so much has changed.

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