

Maritime health, safety and well-being during a pandemic: A clarion call for “place of refuge” for WHO-declared Public Health Emergency of International Concern

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INTRODUCTION

The COVID-19 pandemic posed unprecedented risks to international maritime health and safety, triggering a slew of unprecedented, heterogenous, restrictive measures by governments and public health authorities.

Several governments and port States across the world either banned passenger ships from calling at their ports or sequestered them offshore indefinitely. One company consequently reported 6,000 passengers stranded on board 105 vessels. Besides, ships were required to prepare to treat any sick passengers and crew on board and even try to medically evacuate the very sick directly to their home countries.

Shipping is the lifeblood of global economy and sustenance. Yet, ship crews were exposed to unprecedented risks to their health, safety and well-being with varying quarantine, vaccination and testing requirements besides severe restrictions on access to medical assistance ashore, shore-leave and repatriations [1]. At one point, an estimated 250,000 of the nearly one million seafarers remained on board some 60,000 large cargo vessels worldwide, unable to be repatriated, past the expiry of their contracts and far exceeding the maximum time stipulated under international law.

RISK MITIGATION INITIATIVES OF INTER-GOVERNMENTAL ORGANIZATIONS

In the face of impingement of rights of seafarers and passengers' on board ships amid large-scale risks

to public health, inter-governmental organizations have stepped in with initiatives aimed at addressing the urgent need for international collaboration and global justice, towards public health preparedness for future pandemics.

The United Nations General Assembly (UN GA) declared the seafarer as key worker early on into the pandemic [2].

The World Health Organization (WHO) has under consideration more than 300 proposals from Member States for amendments to the International Health Regulations, 2005. The proposals include the requirement of risk assessments as a prerequisite to implementation of any additional health measures that limit free pratique and a general requirement that public health measures should avoid unnecessary interference with human rights [3].

Meanwhile, WHO Member States are negotiating a new Pandemic treaty, which among other things seeks to enhance preparedness, readiness and resilience of health system in the event of a future pandemic. The treaty acknowledges the role of seafarers as keyworkers. It commits parties to implementing policies, plans, strategies and measures for the safety and protection of seafarers, access to medical care and to facilitate their transit and repatriation [4].

The International Maritime Organization's (IMO) Convention on the Facilitation of International Maritime Traffic (FAL), 1965 and the International Labour Organization's (ILO) Maritime Labour Convention (MLC), 2006 have, similarly, built on the lessons learnt from the COVID-19 pandemic. Among the notable post-COVID amendments to both instruments are the requirements for port States to ensure that seafarers

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can disembark their ships to access medical care ashore and, to facilitate the prompt repatriation of seafarers during public health emergencies [5, 6].

EUROPEAN MARITIME SAFETY AGENCY STUDY

While initiatives are underway by inter-governmental organizations, the European Maritime Safety Agency (EMSA) commissioned a study into the potential COVID-19 related maritime safety issues and emerging risks. The key findings of the EMSA study published in April 2024 are pertinent in the context of the foregoing discussions [7].

The EMSA study analysed the challenges posed by the COVID-19 pandemic, shedding light on the safety concerns and risks focusing on the EU maritime and fishing sectors and reflecting on the global industry. The study recommends an industry-wide emphasis on resilience and preparedness, highlighting the critical importance of mental health initiatives and fostering of a robust safety culture. At the organizational level, a cohesive regulatory environment is recommended that supports the free movement and well-being of seafarers. At the individual level, the study suggests enhancing the mental health support systems for seafarers, and recognizing their essential role in maintaining the lifelines of global trade.

CALL FOR “PLACE OF REFUGE” FOR PUBLIC-HEALTH EMERGENCIES

The EMSA study stands out for its compelling evidence that confining passengers and crew on board a ship during a health emergency can lead to precarious humanitarian situations. The call in the EMSA study for “place of refuge” for ships in the event of WHO-declared Public Health Emergency of International Concern (PHEIC) ensures that individuals have access to basic necessities and appropriate living conditions, offering better protection of human rights. The jurisdictional issues surrounding the responsibility split between the flag State and port State for pandemic preparedness and enforcement would also be addressed.

It is now for the member States to take a call on an IMO instrument on “place of refuge” for WHO-declared PHEIC as an imperative and, the logical next step.

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