

COVID-19 and seafarers' rights to shore leave, repatriation and medical assistance: a pilot study

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ABSTRACT

Background: The well-being of the world's 1.65 million seafarers is expected to be secured by the rights established under the Maritime Labour Convention (MLC), 2006 with active monitoring of its implementation by the flag administrations through the International Maritime Organisation (IMO) and International Labour Organisation (ILO). However, the substantial gains achieved since entry into force of MLC in August 2013 appear to have been severely dented by the COVID-19 global pandemic. The aim of the study was to examine, on a pilot basis, the disruptions and challenges to the observance of seafarers' rights to shore leave, repatriation and medical assistance as an immediate consequence of COVID-19.

Materials and methods: The impact of COVID-19 on seafarers' rights was examined in three dimensions – shore leave, repatriation and medical assistance. Questionnaires were administered online from June to August 2020 to 450 seafarers, top 10 ship-management companies, 35 shipping companies and maritime administrations of top 5 seafarer supplying countries. The paper discusses the results of the survey.

Results: The research revealed a previously unknown majority preference for shore leave, that diminished sharply during COVID-19. Impact on work-performance and well-being of seafarers was revealed with only a fifth of the seafarers having willingly agreed to an extension of contract. This study revealed incidence rates at 6 months into the pandemic of several parameters – delayed repatriations (21.44%) that includes crew with contract extensions (12.48%), crew with completed contract awaiting repatriation (8.96%) and crew that had exceeded 12-month continuous service (0.82%). Compensation, if provided, is meagre and was affecting ratings the most. Deprivation of medical assistance was also revealed.

Conclusions: The well-being of seafarers would likely remain vulnerable to breaches, unless measures are put in place to safeguard the rights assured under MLC in the face of uncertainties caused by a pandemic such as COVID-19.

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Key words: seafarer, well-being, rights, shore leave, repatriation, medical assistance, MLC, COVID-19

INTRODUCTION

Despite the Maritime Labour Convention (MLC), 2006 [1] of the International Labour Organisation (ILO) setting out the seafarers' rights along with their working and living conditions on board a ship, the outbreak of COVID-19 pandemic in March 2020 placed seafarers in a rather precarious situation. A survey by the International Transport Workers' Federation (ITF) in September 2020 showed that 73.3% of seafarers were worried about 'being tired and fatigued', while 60.1% said it was more likely than not that they or their crewmates would be 'involved in an accident (...) due to tiredness or fatigue' [2].

Anecdotal evidence of consequences to the well-being of the seafarers since the outbreak has been sporadic, yet unceasing. The incessant monthly cycle of 300,000 repatriations was abruptly halted by sweeping travel restrictions [3], with seafarers waiting to join a ship stranded ashore, and those on board resigned to their fate. With persisting lockdowns, shore leave was restricted as was also the access to medical assistance [4]. Suicides committed by seafarers such as the 39-year-old crewmember on the Regal Princess reflect the deep anxiety and depression caused by the pandemic [5]. The ITF, to which a majority of the world's 1.65 million

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seafarers pledge allegiance, went to the extent of issuing a statement assuring assistance to seafarers to exercise their right to stop work, leave ship and return home [6]. The International Maritime Organisation (IMO) was joined by several United Nations organisations when it emphasised the contribution of international trade and supply chains to a sustainable socio-economic recovery during COVID-19 [7].

Seafaring features among the most dangerous occupations in the world with at least three times more fatalities than the most dangerous occupation on land [8], and serious deprivations of seafarers' rights appear to be almost the norm. Piracy and kidnapping for ransom are serious risks. Abandonment of seafarers has been recognised as a historic problem with no easy solution until amendments were incorporated in MLC [9]. Ill-treatment through unfair contracts, insufficient shore leave, and inability to contact families while at sea, etc. are, perhaps, endemic to shipping and increasingly prompting seafarers to move from ship to shore [10]. Criminalisation for marine pollution incidents [11] including the Wakashio spill in August 2020 [12], and subsequent neglect by employers [13] is a persisting concern for seafarers [12]. COVID-19 presents unprecedented challenges to the rights of seafarers over and above the persisting issues, and deserves comprehensive research as to its consequences to the seafarer's well-being. This research attempts to fill an emergent gap in knowledge by exploring the impact of the COVID-19 pandemic on the seafarers' rights to shore leave, repatriation and medical assistance and, consequently, their well-being.

PROVISION OF SEAFARERS' RIGHTS IN INTERNATIONAL INSTRUMENTS

The rights of seafarers for shore leave, repatriation and medical assistance are well-defined in MLC 2006. It requires seafarers to be granted shore leave for the sake of their well-being and health. Repatriation shall be at no cost to the seafarer. The maximum period of service on board shall be less than 12 months. If the ship-owner cannot repatriate a seafarer then the competent authority of the flag will arrange repatriation or the state which they are citizen of or the state from which the seafarer is to be repatriated may arrange repatriation and its cost may be recovered from the ship-owner or from the flag state of the vessel. All member states have to ensure that all seafarers are covered for protecting their health and have sufficient medical care during their shipboard tenure, provided free of cost, and that a seafarer in need of urgent medical care is provided access to shore medical facilities [1].

The Seafarer Employment Agreement (SEA) governed by MLC [1], specifies a fixed tenure, but allows extension of contract by 1 or 2 months if repatriation cannot be affected due to operational exigencies, for example an inconvenient port.

The Seafarer Identity Document Convention (Revised), 2003 [14] facilitates access to ports, shore leave, transit, transfer and repatriation obviating any requirement to hold visa for these purposes. However, an authority can deny permission of shore leave based on national security, public safety, and public health.

International Maritime Organisation instruments encourage cooperation and coordination among member states for implementing the procedure and conditions related to shore leave [15] and call for a balanced approach between port related security and seafarers' right of access to shore leave and social facilities ashore [16]. Furthermore, search and rescue services are required to perform co-ordination of provision of medical advice, initial medical assistance and evacuation [17].

The International Health Regulations (IHR), 2005 [18] are of relevance for repatriation of seafarers. IHR call upon states to respect the traveller whereas the lockdown initiated by states restricts the rights of movement of seafarers [19]. Although national legislation usually decides on the conflicts of human and labour rights, IHR attempts to resolve the conflict by reminding that measures taken to protect public health should be less invasive on other rights.

There are differing views on the positive impact of MLC. In a pilot study on board Danish flagged vessels in 2018, Danish seafarers opined that MLC did not have any significant impact in their case since most standards were already in place and some were even inferior to those currently implemented. Rather, MLC added to an otherwise heavy burden of administrative tasks, paperwork and checklists [20]. State practice of providing protection to seafarers has been studied from flag, port and coastal state perspective [21], and vulnerability to abuse is higher when serving on board ships flagged in open registries [22]. The observation that, 'the greatest difficulty faced by seafarers is the fact that their legal rights are often hard to discern, as are the jurisdictions in which these rights can be enforced' appears to hold good despite the adoption of MLC as validated by case studies in Panama and the Philippines [23]. Therefore, although theoretically the rights of a seafarer are secured by MLC, in practice, those rights may be subverted by the maze of laws and policies regulating the shipping industry [24].

SHORE LEAVE

Shore leave for seafarers is a longstanding issue. As far back as 1943, in "Aguilar v. Standard Oil Company", the Supreme Court in the United States ruled that shore leave is, "an elemental necessity (...), not merely a personal diversion" and emphasised that, "no crew would be taken if it could never obtain it" [25]. Leisure outside of the vessel during a port call plays a vital role in the well-being of a seafarer and, while needs may vary between individuals, professional obligations could be an inhibiting factor [26].

Implementation of post 9–11 security measures deprived seafarers of their customary right to shore leave exposing them to prejudicial and other negative treatment. In one extreme case, a seafarer spent a night in jail and was deported for stepping ashore to make a call from a public telephone only metres from his ship [27]. Giving due priority to welfare would require seafarers to be given due respect and transformed as the subjects of the shipping industry [28]. Studies attribute denial of shore leave to a social agenda for dealing with perceived risk, with attendant sociological impacts and technical consequences [29].

REPATRIATION

Repatriation has received scant attention in literature, primarily in the context of medical assistance. Repatriation consequent to an injury or illness has been studied from the perspective of risk [30]. Long tenure on board enhances the risk of medical repatriation, and a study of Filipino seafarers investigated whether 200 days may be the upper limit [31].

MEDICAL ASSISTANCE

The seafarers' right to medical assistance has been equated with the right to life which is a fundamental human right [32], but globalisation created the possibility of disposable worker protections, including seafarer health protection. Technological advancements yield benefits, and disadvantages. Tele Medical Assistance Service (TMAS) has improved access to healthcare for seafarers on board [33, 34] and reduced requirement of medical evacuations [35]. On the other hand, a case study of the United States revealed that neoliberal policies taken together with technology could create conditions that may for example, increase health inequity among seafarers [36]. Medical assistance to seafarers has been the focus of several case studies [37–40], but it draws little attention and receives limited public resources for provision of services [32]. Moreover, identifying and addressing special health and welfare needs of women seafarers is a work in progress [41].

COVID-19 AND SEAFARERS' WELL-BEING

COVID-19 disrupted the entire scheme of repatriation. While ITF attempted to study the matter, media reports captured diverse issues surrounding the repatriation of seafarers. Shipping community have had to go the extra mile to manage crew change since support from the flag states was less than desirable [42], although, crew change was marginally easier at places where flights were operational [43]. Within the community, ship-owners reportedly faced lack of cooperation from several charterers [44]. Meanwhile, International Chamber of Shipping proposed that the industry cannot afford to lose the faith of government [45]. In this context, this research survey helps to bring forward the ground reality.

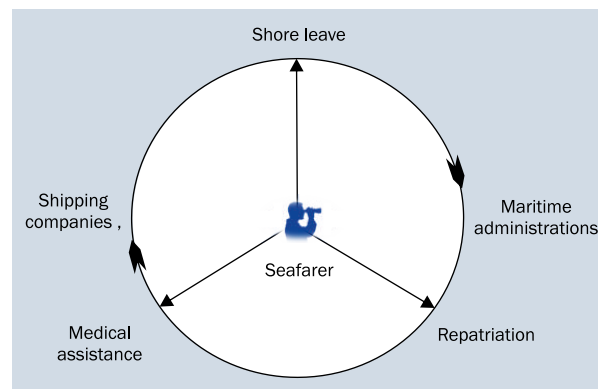


Figure 1. Conceptual framework for the research

A few early studies in the early months of COVID-19 report the exposure of seafarers to work-related stress aggravated by the uncertainties of the pandemic. One study used indications drawn up by the Centro Internazionale Radio Medico (C.I.R.M.) [46]. A survey of 72 seafarers using the General Health Questionnaire (GHQ12) confirmed excess work-related stress in the pandemic situation although an earlier study of 350 seafarers with higher resilience, longer experience and greater support at work reported lower levels of stress at sea [47].

The aim of the study is to examine, on a pilot basis, the disruptions and challenges to the observance of seafarers' rights to shore leave, repatriation and medical assistance as an immediate consequence of COVID-19.

This study is conducted in the backdrop of the concern about the underway United Nations human rights treaty body review process that commenced in April 2020 over the fact that the outcome of the review process may result in less robust state oversight and human rights compliance in the future [48].

The study attempts to shed greater light on the state of well-being of the world's seafarers whose facilitation is vital to world trade. The possibilities for amelioration are linked to the expectations placed on the ongoing efforts at enhanced cooperation among all the relevant United Nations agencies – the International Maritime Organisation (IMO), International Labour Organisation (ILO), World Health Organization (WHO) and International Civil Aviation Organisation (ICAO) – maritime stakeholders and in particular shipping and ports, to collectively address the pandemic and minimise the risk for global trade and on human health [49].

MATERIALS AND METHODS

The conceptual framework (Fig. 1) for the research was based on the hypothesis that the COVID-19 pandemic directly impacts the well-being of seafarers by impinging on their rights established under MLC. The research, therefore,

adopted a questionnaire survey based on a purposive convenience sampling to examine the impact of COVID-19 on seafarers' rights in three dimensions – shore leave, repatriation and medical assistance. The questionnaire was administered online, from June to August 2020. Besides 450 seafarers, top 10 ship-management companies, 35 shipping companies and 33 maritime administrations including top 5 seafarer supplying nations were invited to participate in the survey owing to their role as providers of the rights.

Each group – seafarers, companies, administrations – received a separate set of survey questions. Whereas the seafarers' questionnaire focused on their experiences in the three dimensions linked to their well-being, the company and administration received questions relating to their guidelines, response action and coordination with stakeholders. The questionnaires were approved by the Research and Ethics Committee of the university and the survey was based on informed consent of the participants.

Response was received from 288 seafarers, 18 shipping companies including 4 ship-management companies and 6 maritime administrations including top 2 seafarer supplying nations yielding an individual response rate of 64.0% and institutional response rate of 35.89%. 30% of the individuals were masters of vessels and 66.67% were serving on board at the time of responding to the questionnaire. The 18 participating companies collectively manage 74,701 seafarers aboard 2,240 ships.

RESULTS AND DISCUSSION

DENIAL OF SHORE LEAVE

Fear of the COVID-19 pandemic was all pervasive, and seafarers were not spared of the consequential lockdowns and movement restrictions. During the pandemic, 95% of the surveyed seafarers experienced denial of shore leave. Two-thirds could not even disembark from the gangway while less than a third managed to disembark, if only for reading draft. Apart from state imposed lockdowns, restrictions were imposed by the terminal, port, shipowner, and company, including 80% of the surveyed companies. These restrictions which appear to have been imposed of own accord and, perhaps, without knowledge or directives of the flag administration are violative of MLC.

On the other hand, given the imminent risk, 75% seafarers apparently accepted the restrictions and did not wish to avail shore leave during the pandemic. 62% suggested a strong probability of suffering an infection besides 32% who feared a moderate probability. The study revealed a previously unknown majority preference for shore leave at every port during normal times that diminished sharply during the COVID-19 pandemic, due to the imminent risk of

infection during shore leave. Figure 2 presents the survey results of denial of shore leave.

IMPACT OF SHORE LEAVE DENIAL

Prolonged restriction on board without shore leave will likely take toll, particularly on the mental state, work performance and health of the seafarer. The study explored all of these aspects. Two out of 5 seafarers felt unhappy, 3 out of 10 felt stressed, and 1 in 6 felt completely fatigued. Overall, other than the 7.7% hardy seafarers who believed that they were happy regardless of circumstances, an overwhelming 88% seafarers were visibly impacted by absence of shore leave. The possibility to choose only one option revealed the stronger among the feelings although a person could feel unhappy, stressed and fatigued at the same time, as revealed through comments by 4 participants. The seafarers' state of happiness was explored in a specific question, later.

Absence of shore leave impacted work performance and, perceivably, the health of seafarers, with only 1 in 6 participants indicating that performance was not affected against 4 in 5 seafarers who reported moderate effect due to denial of shore leave. Adverse effect on health was reported to be on a similar scale with 1 in 3 suggesting moderate effect against only 1 in 4 seafarers having felt no effect.

The impact of denial of shore leave (Fig. 3) is a significant finding of the study and confirms the concerns being raised in several quarters since the outbreak of the pandemic. Diminishing shore leave incredibly influences the well-being of those who frequently face long voyages without a break at any port. This is genuinely tragic. Shore leave is the privilege of each seafarer and permitting them sufficient shore leave in the long run increments the general efficiency of work on board.

It appears that companies are mindful of the adverse impacts since majority (65%) provided additional entertainment facilities on board although some (25%) took no interest in the matter.

CONTRACT EXTENSION AS COLLATERAL

The widely prevailing narrative on uncertainties of repatriation was reinforced by the survey with only 14.5% seafarers being repatriated timely after contract completion and contract extension emerging as a collateral impact (Fig. 4). One in 10 seafarers suffered 1 to 2 months delay, an equal proportion suffered three to 4 months delay, and some were repatriated as many as 4 months on contract completion. The bulk of contracts were extended due to COVID-19. A cause for concern is the fact that more than half of the seafarers on board during COVID-19 had their contract extended, half of which were against free will. 7.9% contracts were extended beyond 12 months.

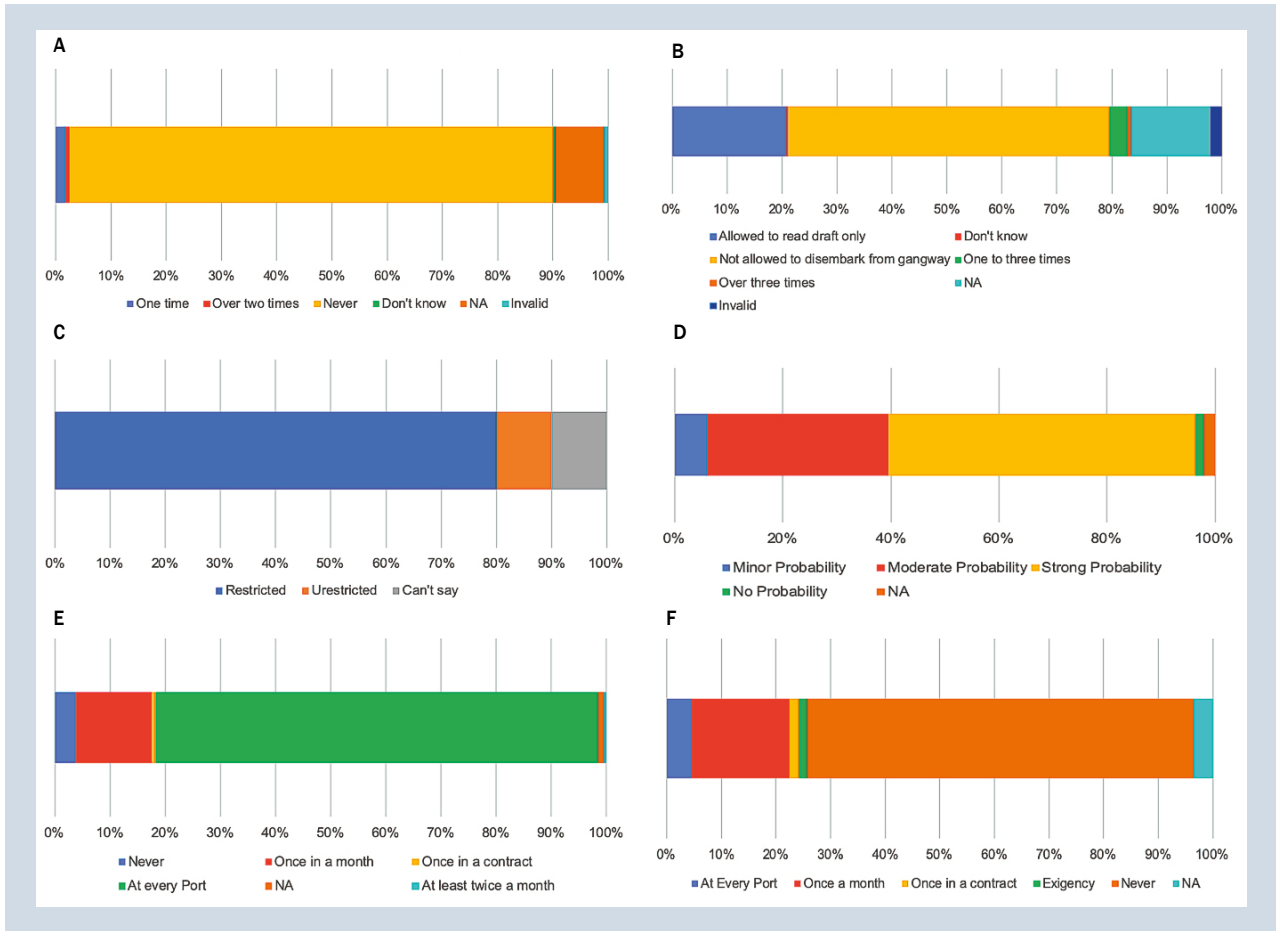


Figure 2. Denial of shore leave; A. Grant of shore leave; B. Permission to disembark; C. Company policy on shore leave; D. Belief in COVID-19 risk on availing shore leave; E. Shore leave expectation in normal times; F. Shore leave expectation during COVID-19

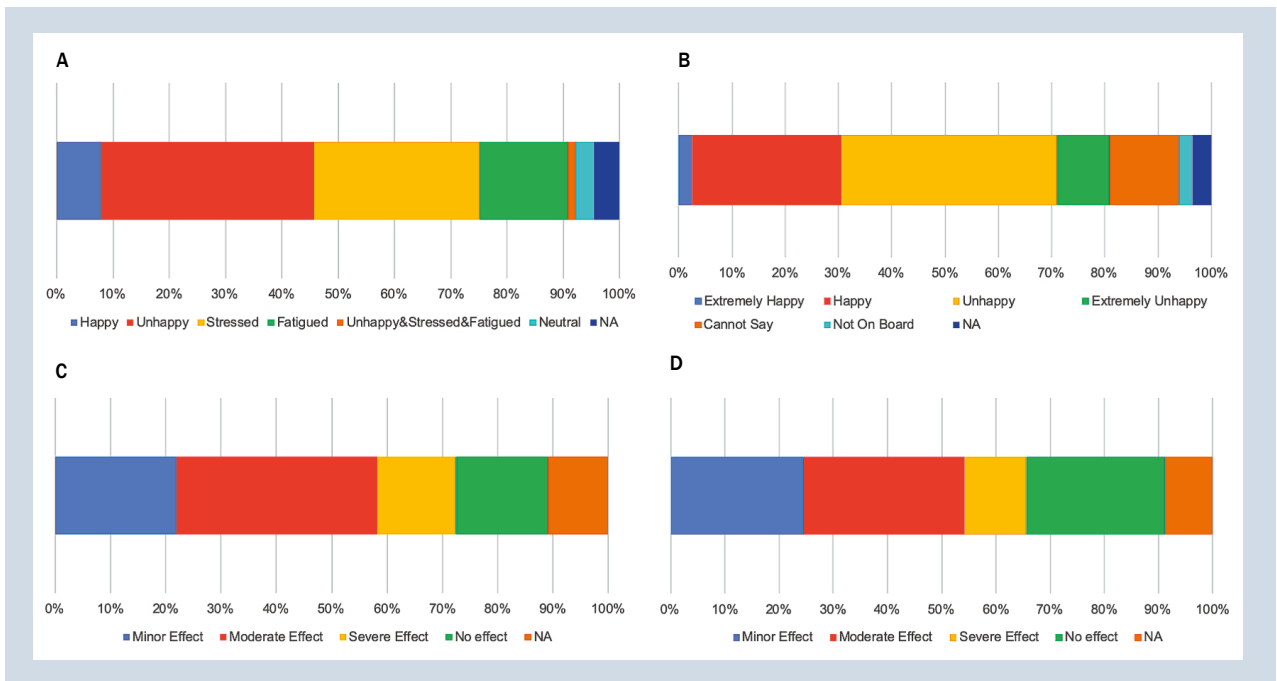


Figure 3. Impact of shore leave denial; A. Shore leave denial – overall impact; B. Seafarers' happiness status during COVID-19; C. Shore leave denial – impact on work; D. Shore leave denial – impact on health

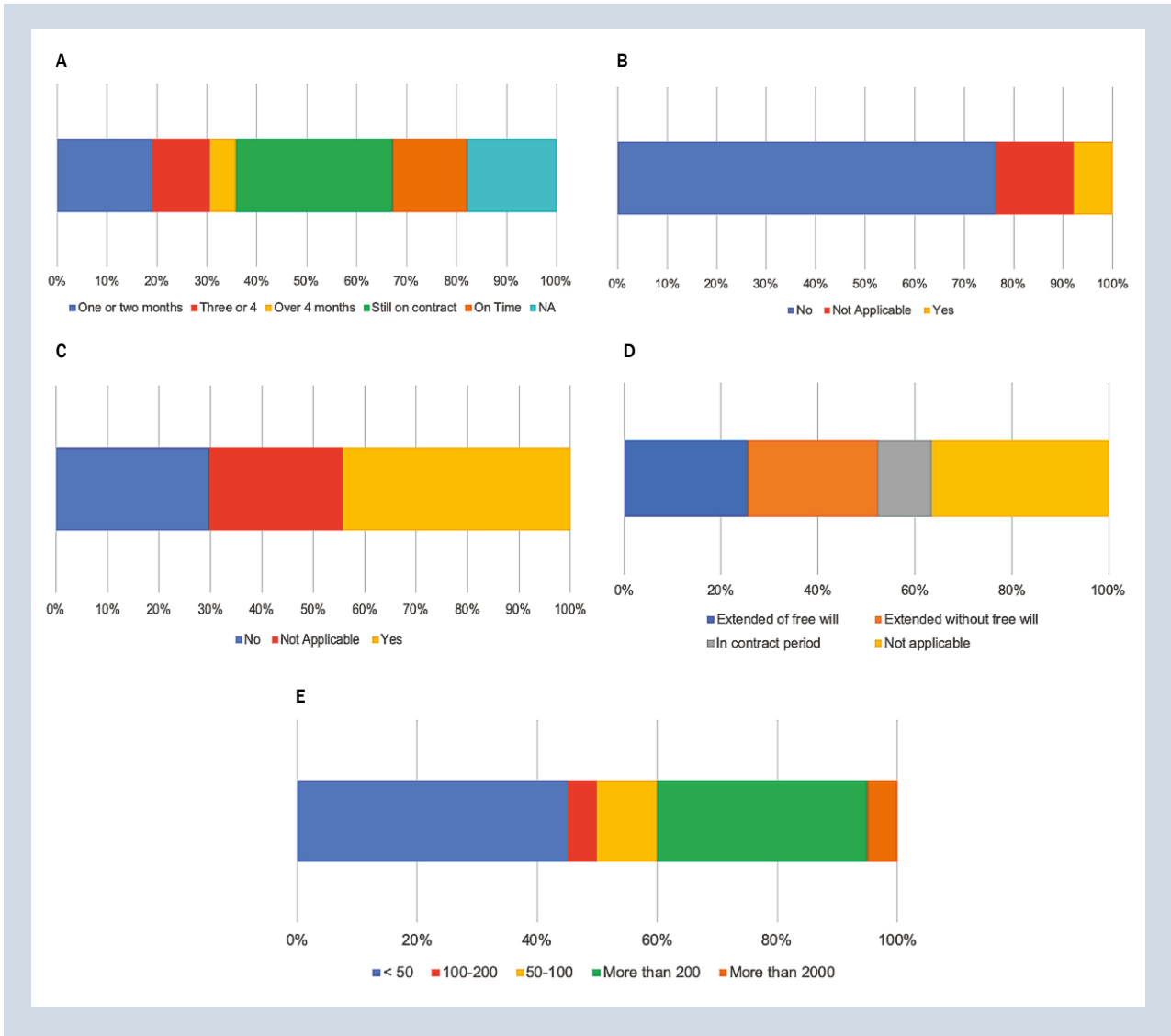


Figure 4. Contract extension as collateral impact; **A.** Timeliness of repatriations during COVID-19; **B.** Stay on board exceeding 12 months; **C.** Status of contract extension due to COVID-19; **D.** Contract extension – willingness; **E.** Seafarers exceeded Seafarer Employment Agreement + 1 month clause by per cent of companies

The largescale contract extensions are despite MLC requiring that no seafarer be employed beyond 12 months. A seafarer has the right to repatriation once the contract terminates, or simply wants to terminate it for justified/compassionate reasons. Apparently, the company negotiated with the seafarers so as to acquire additional time to coordinate repatriation.

The company survey (Table 1) yielded further insights on contract extensions. The 18 surveyed companies, that among them managed 74,701 seafarers, reported 6,695 having completed contract and awaiting repatriation despite extending contract of another 9,324 crew of whom 615 had exceeded 12 months of continuous service, in violation of MLC standard A2.5, and the Col-

lective Bargaining Agreement. Almost all surveyed companies reported contract extensions (Table 1) and overall, 6 months into the pandemic, the incidence rate of delayed repatriations, contract extensions, crew with completed contract awaiting repatriation and crew that had exceeded 12-months continuous service was 21.44%, 12.48%, 8.96% and 0.82%, respectively. Seafarers who have exceeded the +1-month clause of the contract may not be mentally prepared for further stay on board, which may reflect on work performance. Mental fatigue plays a major role in the condition of work.

Regardless, companies suggested satisfactory outcome for repatriations in contrast to the seafarers’ response, and the wider belief in the maritime fraternity. 80% companies

Table 1. Consolidated company particulars

Company	Number of ships managed by company	Number of seafarers managed by company	Number of crew with extended contract	Number of crew with completed contract	Number of crew exceeded 12-month service
A	150	5000	0	0	0
B	55	1500	6	22	2
C	300	12000	3600	30	0
D	102	5300	827	1300	37
E	19	450	50	175	0
F	1	6	6	0	0
G	22	650	80	110	0
H	9	200	27	37	0
I	515	11000	220	1038	65
J	8	300	59	78	0
K	122	3200	240	120	0
L	2	25	5	0	0
M	150	6000	1100	900	90
N	600	21000	2680	2308	0
O	12	1500	100	80	0
P	146	5650	238	420	421
Q	17	800	67	74	0
R	10	120	25	3	0
Total	2,240	74,701	9,324	6,695	615
Incidence rate (%)			12.48	8.96	0.82

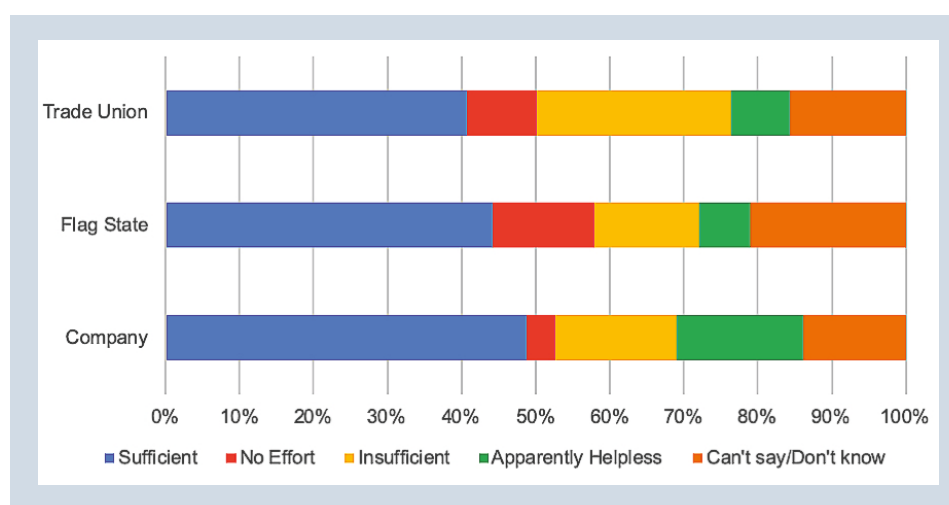


Figure 5. Seafarers' opinion on stakeholder efforts for their relief and repatriation

were required to provide additional budget for repatriations although most companies could not specify the exact increase in budget. One company, however, stated that there was no limit to the budget for repatriating crew.

RELIEF AND REPATRIATION EFFORTS

The perspectives of seafarers on the relief and repatriation efforts of stakeholders are quite revealing (Fig. 5). The company is expected to act appropriately to resolve the

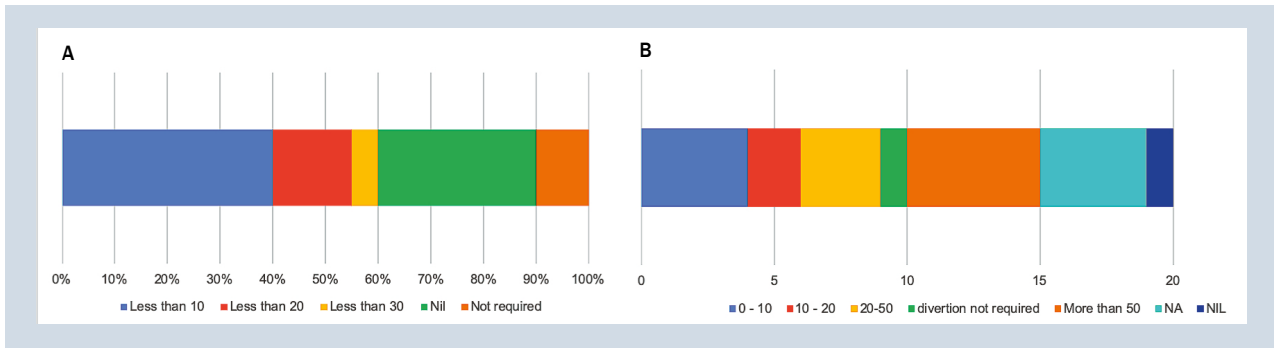


Figure 6. Vessel diversion for crew repatriations; **A.** Vessel diversion by companies for repatriation; **B.** Number of crew repatriated by vessel diversion

issue, which includes consulting the concerned authority on repatriation matters. However, opinion was split, and only 37% seafarers felt that the efforts by the company were non-existent, insufficient, or the company appeared to be helpless. As such, flag state is deemed to have a greater role in facilitating repatriation of seafarers under jurisdiction. The study indicated marginally better sentiments on part of the seafarers towards the flag administration as compared to the shipping companies. Overall, whereas 40% of participants were satisfied with flag state, company and trade union effort, more than 20% felt that efforts were lacking. Despite all endeavours, the fact remains that crew remain stranded and await relief and repatriation, and needless to mention, they remain under tremendous pressure.

VESSEL DIVERSION

Majority of companies reported vessel diversions for crew change (Fig. 6) and accepted that it was a challenge to send crew home due to lockdown, and the remainder reporting nil diversion or no requirement of diversion, should be treated with caution. Contrary to media reports [44], a majority of companies agreed that owners and charterers were also supportive for diverting vessel for crew change, and that steps taken for repatriating seafarers are working effectively. Baltic and International Maritime Council's COVID-19 crew change clause in the time charter also reportedly facilitates the deviation of vessel [50].

COMPENSATION FOR DELAYED REPATRIATION

Any incentive or bonus by the company for extended stay on board is well deserved and a great morale booster for the seafarer. While 41% seafarers reported being compensated with a bonus or increment in basic or full wages, 32% were not compensated for their extended stay on board.

The company response mirrored that of the seafarers. 75% companies offered compensation in some form – increment in basic wages, bonus, prolonged service al-

lowances, etc. and also provided additional entertainment facility on board and periodically contacted the seafarer's family (Fig. 7), which is truly heart-warming.

Not honouring the clause for compensating extension of scheduled tour length is a violation of SEA. Management recognition could motivate a seafarer to willingly continue on board whereas inadequate or no compensation (25% companies) and failing to ensure the welfare of seafarers could have adverse consequences for the crew, and thereby the safety of the ship and the environment.

MEDICAL ASSISTANCE AND COVID-19 READINESS

Limited availability of medical assistance appears to have been a collateral impact of COVID-19 to not only seafarers but also community at large. IMO too recognised the gravity of the problem and its consequences for seafarers [51]. While vessels are equipped to deal with COVID-19 to the extent possible, access to medical assistance ashore when calling at a port emerged as a major challenge. Most participants agreed that their vessel was adequately equipped to deal with COVID-19 prevention (Fig. 8) and as such, 47.8% of participants did not experience any sick seafarer on board. None experienced COVID-19 infection to any of their shipmates sailing with them. However, 15.4% of participants were of the view that seafarers were not provided with medical assistance ashore.

Medical evacuation coverage for COVID-19 infected seafarers is a critical aspect of medical care to seafarers. Only half of the surveyed companies trusted the sufficiency of their policy for dealing with any COVID-19 infections, and 10% companies clearly admitted that it was not sufficient. With the exception of one case, none of the respondent companies had suffered any COVID-19 infection in their fleet although there were cases of other medical emergencies. Companies largely accepted (65%) that there was no additional insurance cover for COVID-19 except for P&I

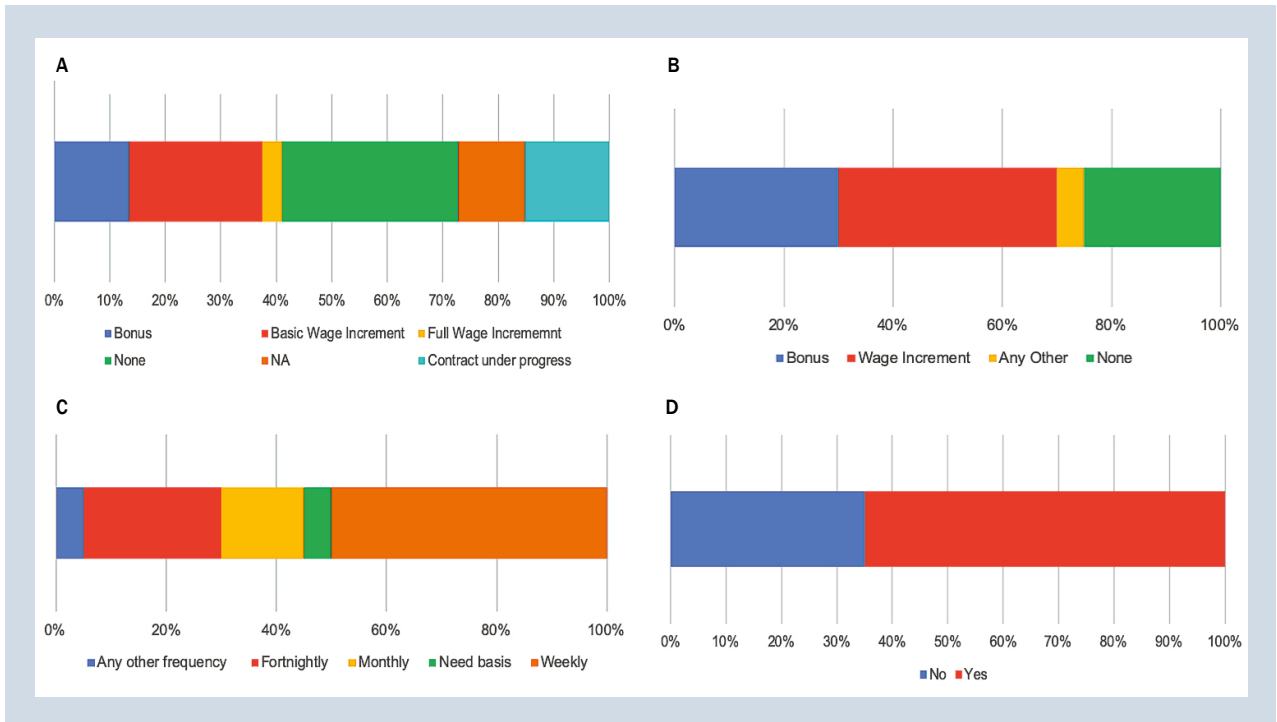


Figure 7. Compensation for delayed repatriation; **A.** Compensation for extended stay – seafarer poll; **B.** Compensation for extended stay – company poll; **C.** Company contact with seafarer family – frequency; **D.** Whether additional entertainment facilities provided on board – company poll

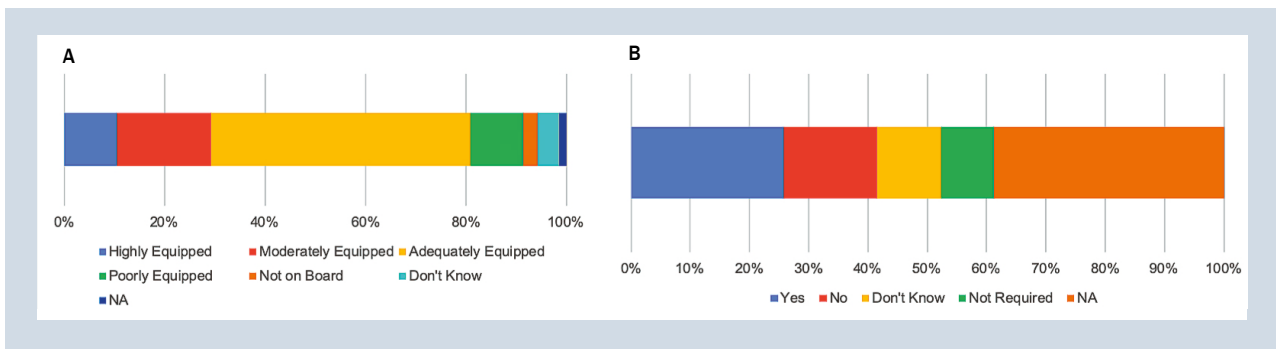


Figure 8. Medical assistance to seafarers and COVID-19 readiness; **A.** Vessel readiness for COVID-19 – seafarers' perceptions; **B.** Access to medical assistance ashore during COVID-19

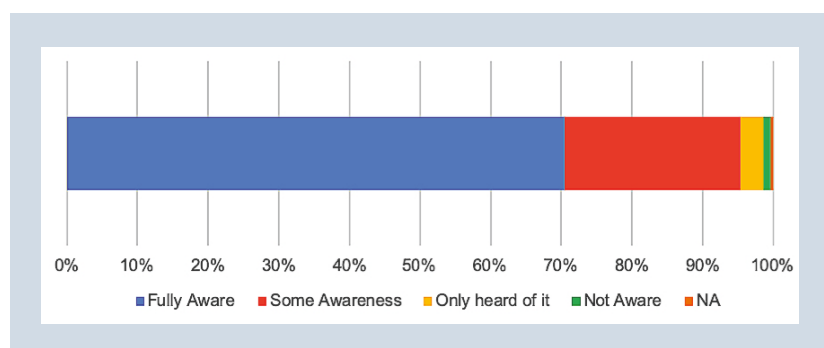


Figure 9. Seafarers' awareness of instruments related to their rights

cover. A majority (57.9%) of owners, charterers, ship-management would accept a deviation for medical care for a COVID-19 infected crew, 15.5% categorically rejected the possibility of a deviation. As discussed before, regardless of the refusal by a small fraction of industry, denial of medical care to a seafarer is not acceptable under MLC, or Collective Bargaining Agreement.

SEAFARERS' AWARENESS OF REGULATIONS

The study suggests that only about 70% of participants had full awareness of the international regulations pertaining to shore leave, repatriation and medical assistance, while a quarter of the respondents indicated some awareness of the provisions (Fig. 9). Member states especially seafarer providing nations, companies, seafarer unions and other relevant stakeholders should take note of the fact that around 5% of seafarers are not aware at all of their rights and, therefore, more vulnerable to deprivation.

CONCLUSIONS

Shore leave is key to mental well-being and requires utmost facilitation. Crew change merits standardised international protocols supported by designation of seafarers as key worker. Binding seafarers into contracts without their will is a serious human rights violation calling for more stringent legal safeguards and diligent monitoring by flag states. Well-being of seafarers remains vulnerable to breaches, unless seafarers are apprised of their rights through a formal Standards of Training, Certification and Watchkeeping for Seafarers training module and measures devised to safeguard the rights assured under MLC. The experiences gained and lessons learned from the COVID-19 pandemic should be drivers for improving resilience in meeting extraordinary situations in the future.

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