

**SAFEGUARDING THE RIGHT OF SEAFARERS IN THE MARITIME INDUSTRY:
ASSESSING THE SUITABILITY OF THE PROVISIONS UNDER NIGERIAN LAW**

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ABSTRACT

The growing disparities between the beautiful blueprints that exist for the protection of seafarers' right and what obtains in practice has become troubling. Seafarers are pivotal to the functionality of the maritime industry, which is the economic nerve of many countries, including Nigeria but the illustrious social welfare promised by the Maritime Labour Convention 2006 has not manifested in the lives of seafarers in Nigeria. Hence, this article investigates the reason for the dichotomy between rights in theory and practice, explores the unique challenges faced by seafarers in Nigeria, highlights novel challenges occasioned by the COVID-19 pandemic, and chronicles the inadequacies of the Nigerian Maritime Administration and Safety Agency (NIMASA) in protecting seafarers' rights. This article contends that to ensure the effective realization of seafarers' rights, the practice of ratifying international conventions without proper domestication must be abandoned. Additionally, regulatory agencies must prioritize enforcing existing rights and holding violators accountable.

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1.0 INTRODUCTION

The maritime industry plays a pivotal role in global trade, with seafarers serving as the sector's backbone. In Nigeria, with its vast coastline and status as an oil exporter, the significance of maritime activities cannot be overstated. Seafarers, who work tirelessly to ensure the seamless operation of ships and the transportation of goods, often face challenging and perilous conditions. Despite their critical contribution, their rights have historically been overlooked, making safeguarding their welfare and ensuring fair treatment a pressing concern.

The Nigerian maritime sector, governed by various national laws and international conventions, including the Merchant Shipping Act 2007, the Labour Act, and Nigeria's ratification of the Maritime Labour Convention 2006 (MLC 2006),¹ sets the legal framework for seafarers' rights. These instruments aim to protect seafarers from exploitation, ensure proper working conditions, and promote their social well-being. However, there remains an ongoing debate about the adequacy of Nigerian legal provisions in providing comprehensive protection to seafarers.

Seafarers are a unique community of people within the maritime industry because they are citizens of practically every country on the globe. However, the nature of their work not only isolates them into a distinct interstitial group existing on the outskirts of society but also subjects them to a plethora of foreign laws and jurisdictions that can lead to their rights being violated.

¹ International Labour Organisation, "Nigeria ratifies the Maritime Labour Convention, 2006 (MLC, 2006)" available at [Nigeria ratifies the Maritime Labour Convention, 2006 \(MLC, 2006\) | International Labour Organization](#) (accessed 8 September 2024).

It is essential to recognise that, despite the inherent dangers of their profession and the importance of affording seafarers' protection, challenges emerge when inconsistencies in legal frameworks across different jurisdictions result in unequal protection of their rights.² As a result, seafarers must be assured of their rights, no matter where their voyage takes them. This protection becomes even more crucial when considering that, according to the World Economic Forum, 90% of the world's goods are transported by sea, largely due to the indispensable services provided by seafarers. Without their effective performance, the global economy would face severe disruptions.³

Nigerian laws provide for some of these rights, including the right to a safe and secure workplace, fair wages, reasonable terms in employment contracts, and even the right to arrest a ship.⁴ However, despite the dangerous nature of seafaring, Nigerian seafarers' labour rights are often violated by shipping companies without adequate redress.⁵ In addition to working in environments prone to health challenges, seafarers often experience delayed or unpaid wages, a lack of proper medical care, and unfair contract terms.⁶

² K.X. Li & Jim Mi Ng, (2002) "International Maritime Conventions: Seafarers' safety and Human Rights" 33 *Journal of Maritime Law & Commerce* 3.

³ Spencer Feingold & Andrea Willige, "These are the world's most vital waterways for global trade" available at <https://www.weforum.org/agenda/2024/02/worlds-busiest-ocean-shipping-routes-trade> (accessed 31 August 2024).

⁴ Kenneth C.K "Seafarers Rights in Nigeria" available at [Seafarers' Rights In Nigeria - Employee Rights/ Labour Relations - Employment and HR - Nigeria \(mondag.com\)](https://mondag.com/Seafarers-Rights-In-Nigeria-Employee-Rights-Labour-Relations-Employment-and-HR-Nigeria) (accessed 31 August 2024).

⁵ 'Unpaid benefits: We won't abandon you, Labour assures disengaged seafarers, beneficiaries' (Vanguard, 11 September 2023) available at <https://www.vanguardngr.com/2023/09/unpaid-benefits-we-wont-abandon-you-labour-assures-disengaged-seafarers-beneficiaries/> (accessed 6 September 2024)

⁶ G. Exarchopoulos et al., "Seafarers' welfare: A critical review of the related legal issues under the Maritime Labour Convention 2006" (2018) 93 *Marine Policy* 93 62, 63.

This paper will critically assess the adequacy of Nigerian law in protecting seafarers' rights. It will examine how well national legislation aligns with international standards, identify gaps in legal protections, and propose reforms to improve the working conditions and welfare of Nigerian seafarers.

2.0 OVERVIEW OF INTERNATIONAL MARITIME LAW

International maritime law governs the rules and regulations related to navigation, maritime conduct, and rights over the world's oceans. It comprises treaties, customary laws, and conventions that regulate activities such as shipping, resource exploitation, marine environmental protection, and dispute resolution between states. International maritime law also establishes the legal framework governing activities and interactions on the world's oceans, ensuring the protection of seafarers' rights, safety, and welfare.

This section provides an overview of the key components of international maritime law that are pertinent to the protection of seafarers, including the International Labour Organisation (ILO) conventions, the Maritime Labour Convention (MLC) 2006, and other relevant international agreements. These frameworks not only influence domestic law but also provide a benchmark for assessing the adequacy of Nigeria's legal provisions in protecting seafarers' rights.

The International Labour Organisation (ILO) plays a pivotal role in setting international labour standards, including those specific to the maritime sector. Historically, seafarers have often lacked fundamental rights, prompting the ILO to address these gaps through various conventions and treaties. Notable ILO conventions include the International

Convention for the Prevention of Pollution from Ships (MARPOL).⁷ Although primarily focused on environmental protection, MARPOL also impacts seafarers by setting standards that indirectly affect their working conditions. There is also the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW),⁸ which establishes the qualifications and training required for seafarers, ensuring their competence and safety at sea. The International Convention for the Safety of Life at Sea (SOLAS) 1974 also exists. The primary goal of the SOLAS Convention is to establish minimal safety-compatible requirements for the design, functionality, and equipment of ships. It is regarded as the most significant convention regarding the safety of commercial vessels.⁹

The Seafarers' Hours of Work and the Manning of Ships Convention 1996 is another ILO Convention¹⁰ that addresses issues related to working hours, rest periods, and the minimum number of crew members required on ships to ensure safe and efficient operations. It seeks to prevent overwork and fatigue, which are significant risk factors in maritime accidents.

These ILO conventions form the backbone of international maritime labour standards, providing a universal baseline that member states are encouraged to adopt and implement within their national legal frameworks. By ratifying these conventions,

⁷ International Convention for the Prevention of Pollution from Ships 1973.

⁸ The Standards of Training, Certification & Watchkeeping for Seafarers 1978.

⁹ IMO, "International Convention for the Safety of Life at Sea (SOLAS), 1974," available at [https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-\(SOLAS\),-1974.aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS),-1974.aspx) (accessed 8 September 2024).

¹⁰ Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), available at https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C180,/Document (accessed 8 September 2024).

countries commit to upholding the rights and protections they enshrine, thereby fostering fair and safe working environments for seafarers globally.

Additionally, there is the Maritime Labour Convention (MLC) 2006, which came into force on 20 August 2013 and is also known as the Seafarers' Bill of Rights. The MLC aims to guarantee respectable living and working circumstances for all seafarers by building on 68 existing marine labour treaties and recommendations, as well as more broadly based fundamental principles.¹¹ It is important to flag that the MLC is more concerned with seafarers' rights and sets out the minimum standards to be met by states.¹² The MLC applies to anyone working in any capacity onboard a ship.¹³

Nigeria ratified the MLC 2006 on 18 June 2013 and also acceded to the 2014 amendments of the MLC through the tacit amendment procedure; however, the country is yet to domesticate the Convention and the amendments, in line with Section 12 of its 1999 Constitution as a dualist state. Hence, seafarers in Nigeria are yet to derive the intended benefits,¹⁴ leaving a gap between international commitments and actual legal enforcement at the national level.

¹¹ Nautilus International, "The Seafarers' Bill of Rights: A guide to the ILO Maritime Labour Convention, 2006" p.1, available at https://www.nautilusint.org/globalassets/public-resources/pdfs/nautilus_guide_to_maritime_labour_convention.pdf (accessed 8 September 2024).

¹² Ibid.

¹³ Ibid., p. 3.

¹⁴ Olabisi O. George, "A law to incorporate the 2014 amendments of the Maritime Labour Convention into the laws of the Federal Republic of Nigeria" (2017/2018) International Maritime Law Institute, p.13, available at <https://imli.org/wp-content/uploads/2020/12/Olabisi-George-Draft.pdf> (accessed 9 September 2024).

3.0 THE NIGERIAN MARITIME LEGAL FRAMEWORK

The Nigerian maritime sector is critical to the country's economy, given its extensive coastline and significant role in international shipping and trade. To regulate this vital industry, Nigeria has developed a comprehensive maritime legal framework aimed at ensuring safety, security, and the protection of seafarers' rights, as well as promoting efficient trade.

This legal framework is shaped by a combination of national laws, regulations, and international conventions that Nigeria has ratified or acceded to. However, challenges remain in implementing these laws effectively, particularly in fully aligning national legislation with international standards. This section examines the key components of Nigeria's maritime legal framework as it relates to seafarers, highlighting the progress made and identifying areas in need of reform to better protect maritime workers and advance the industry's growth.

The foundation of Nigeria's maritime legal framework is the 1999 Constitution, which outlines the legal responsibilities of the government to regulate maritime activities.¹⁵ Section 12 of the Constitution, in particular, requires the domestication of international treaties ratified by Nigeria to have full legal effect within the country. This constitutional provision highlights Nigeria's status as a dualist state, meaning that international conventions must be enacted as part of domestic law before they can be enforced locally.

¹⁵ Sections 20 and 44(3) of the 1999 Constitution.

The Constitution further confers jurisdiction on the Federal High Court to the exclusion of any other court in civil causes and matters relating to any admiralty jurisdiction.¹⁶ The Admiralty Jurisdiction Act further provides for the extent of the jurisdiction conferred on the court.¹⁷ However, it is important to point out that there have been jurisdictional clashes regarding the right court between the Federal High Court and the National Industrial Court,¹⁸ as to which is vested with the jurisdiction to entertain maritime labour claims - which bothers on claims by seafarers, such as unpaid crew wages. The subsisting position is the decision of the Court of Appeal in *The Vessel MT Sam Purpose (Ex Mt. Tapti) & Anor v. Bains & Ors*,¹⁹ where the appellate court held that it was the National Industrial Court that had the exclusive jurisdiction to determine claims for crew wages.

The Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007 creates the NIMASA as the principal regulatory body responsible for maritime safety, labour, security, and the overall sector.²⁰ The NIMASA Act provides the framework for the promotion of maritime development, enforcement of safety standards, and regulation of seafaring activities. The agency is also tasked with implementing international maritime conventions, including those related to labour and environmental standards.

There is also the Merchant Shipping Act 2007 - which governs shipping operations in Nigeria and outlines the rules for ship registration, crew welfare, and vessel safety. It

¹⁶ Section 251(1)(g) of the 1999 Constitution.

¹⁷ Section 1(1) of the Admiralty Jurisdiction Act.

¹⁸ The National Industrial Court was created pursuant to Section 254C (1) of the 1999 Constitution, after the third Alteration Act.

¹⁹ (2021) LPELR-56460 (CA).

²⁰ Nduka, R. E., & Ifepe, N. A. (2021). Analysis of the Roles of the Relevant Regulatory Agencies in the Nigerian Maritime Industry. IRLJ, 3, 11.

serves as a critical piece of legislation that covers areas such as crew conditions, pollution control, and the legal responsibilities of shipowners and operators. Part IX of the Merchant Shipping Act makes provisions on matters relating to the employment of seamen. This includes establishing the Seafarers Services Office (with sub-offices in other places) and other things connected to how seamen engagement and discharge on Nigerian ships will be conducted. Part X goes on to provide for the welfare of seamen.

The Nigerian Maritime Labour Act 1999 also exists. Part V of the Act provides for the registration of seafarers and their employers. Part VI goes on to provide for the obligations of seafarers, while Part VII provides for the conditions of service of seafarers.

There is also the Coastal and Inland Shipping (Cabotage) Act 2003, which was enacted to promote Nigerians' participation in coastal shipping and reserve domestic shipping services for vessels owned, manned, and built by Nigerians. The law was designed to boost local capacity in the shipping industry while reducing the dominance of foreign-owned vessels in Nigeria's domestic maritime trade. Although the Cabotage Act does not directly contain provisions that relate to seafarers, it has been submitted that the implementation of the Act has resulted in an increase in the number of Nigerian seafarers employed.²¹ But it was also pointed out that the welfare and remuneration of Nigerian seafarers working on cabotage vessels have not enjoyed the necessary attention.²²

²¹ D. E. Onwuegbuchunam et al, "Assessment of Cabotage Act implementation and its effect on Nigerian seafarers" (2020) *Journal of Sustainable Development of Transport and Logistics*, 5(1), 124 - 132, p.132, available at <https://jsdtl.sciview.net/index.php/jsdtl/article/view/94/67> (accessed 9 September 2024).

²² *Ibid.*, p. 124.

While Nigeria's maritime legal framework is robust in many respects, several challenges persist. The lack of domestication of certain international conventions, such as the MLC 2006, has prevented Nigerian seafarers from fully benefiting from international labour standards. Additionally, corruption and bureaucratic delays in enforcing existing laws and regulations often hinder the effectiveness of the framework.

However, opportunities exist to further strengthen the legal landscape. Reforms aimed at modernising the maritime sector, capacity-building for local stakeholders, and increased enforcement of international standards could significantly enhance Nigeria's maritime industry. The Blue Economy presents a promising frontier for Nigeria, where a strengthened legal framework can foster sustainable development, encourage investment, and improve the welfare of seafarers.

Nigeria's maritime legal framework provides the structural foundation for regulating the industry, but significant work remains in domesticating international conventions and improving enforcement to ensure the protection of seafarers and the efficient operation of maritime activities.

4.0 THE STATE OF SEAFARERS' RIGHTS IN NIGERIA VIS-À-VIS INTERNATIONAL STANDARDS

Globally, the rights of seafarers are at the core of many deliberations, symposiums and conferences in the maritime industry. There are grave concerns that the rights of seafarers in practice pale in comparison to what is outlined in numerous conventions, like the Maritime Labour Convention (2006), Dock Work Convention, and Minimum Wage Fixing Convention (1970).

The Maritime Labour Convention, 2006, enunciates various rights to safeguard the labour rights of seafarers; from establishing maximum hours and mandating rest hours to creating an imperative for the provision of medical care, welfare, and social security protection, it galvanises all stakeholders to create a safe working environment for seafarers. However, there appears to be a striking difference between what is codified in the statutes and what is obtained in reality for many seafarers, particularly in Nigeria. Recently, these rights have been subject to more nuances as the COVID-19 pandemic forced many seafarers to stay longer than their contracted hours while anxiety, mental health issues and health protection became harder for shipowners to handle.

Hence, it is important to x-ray the rights of seafarers in an increasingly changing world, with a critical focus on Nigerian seafarers and how they fare in comparison with their global counterparts.

4.1 Unique challenges faced by Seafarers in Nigeria

Seafarers face a plethora of challenges in Nigeria ranging from unemployment, piracy, wage disparities, lack of sea-time, inability to access certifications from reputable maritime organisations, etc.²³ These challenges have impacted the ability of seafarers in Nigeria to compete favourably at the global stage.²⁴ Despite the availability of institutions like the Maritime Academy Nigeria (MAN) Oron, Federal College of Fisheries

²³ Joshua “Addressing The Many Problems of Nigerian Seafarers” available at <https://shippingposition.com.ng/addressing-the-many-problems-of-nigerian-seafarers/#:~:text=It%20is%20a%20fact%20that,bunkering%2C%20piracy%2C%20and%20theft> (accessed 16 September 2024).

²⁴ Ibid.

and Marine Technology, Lagos, Charkin Maritime Safety Centre, Rivers, the Joe Marine Institute of Nautical Studies and Research, etc.,²⁵ both foreign and indigenous shipowners in Nigeria fail to employ the majority of Nigerian-trained seafarers.²⁶ It has been established that most international maritime organisations do not recognise a Certificate of Competency (CoC) presented by Nigerian seafarers.²⁷ The reason mostly alluded to is the problem of inadequate training of Nigerian cadets. All of these issues culminate in an unfavourable job market for Nigerian-trained seafarers.

Over 70% of Nigerian seafarers are jobless, a number that is likely to increase with the introduction of the Nigerian Seafarers Development Programme (NSDP).²⁸ The NSDP is a programme conceived by NIMASA to offer world-class training to cadets and seafarers in Nigeria. The programme has produced at least 3000 seafarers without any significant improvement in the floating of indigenous ships or improvement in shipbuilding capacity. NIMASA has been faulted for the high level of unemployment due to their inability to employ qualified people to train seafarers and the lack of competent administrators to oversee the activities of the various maritime training academies.²⁹ Elsewhere, it has been argued that NIMASA's lack of MoUs with top shipping countries has put Nigerian seafarers at a disadvantage compared to their Ghanaian

²⁵ NIMASA, “Nimasa approved maritime training institutions and courses” available at <https://nimasa.gov.ng/wp-content/uploads/2023/04/2023-UPDATED-LIST-OF-NIMASA-APPROVED-MTIs-by-QUALITY-ASSURANCE-QA30560.pdf> (accessed 16 September 2024).

²⁶ George Amos “Nigerian Seafarers: Regulatory Challenges And Effective Measures For Providing Better Working Conditions” available at https://www.linkedin.com/pulse/nigerian-seafarers-regulatory-challenges-effective-measures-amos-m9raf?utm_source=share&utm_medium=member_android&utm_campaign=share_via (accessed 17 September 2024).

²⁷ Ibid.

²⁸ Anozie Egle “Over 70% of Nigerian seafarers jobless -Expert” available at <https://punchng.com/over-70-of-nigerian-seafarers-jobless-expert/> (accessed 16 September 2024).

²⁹ Gilbert Ekugbe “Expert: NIMASA, MoT Responsible for 80% of Unemployed Seafarers in Nigeria” available at <https://www.thisdaylive.com/index.php/2023/06/30/expert-nimasa-mot-responsible-for-80-of-unemployed-seafarers-in-nigeria/> (accessed 17 September 2024).

counterparts.³⁰ These MoUs are part of strategic business arrangements where countries agree to prioritise seafarers from specific countries based on the peculiarities of their agreements.³¹ Nigeria has failed to carry out its diplomatic duty hence putting locally trained seafarers at a disadvantage. It has also been argued that Nigeria can secure MoUs with top shipping companies like Maersk, and Pacific International Line, to prioritise Nigerian cadets but we have failed to leverage this opportunity.³²

Due to these conditions, the average seafarer in Nigeria does not have the leverage to negotiate a globally competitive wage when employed by indigenous shipping lines. Many seafarers in Nigeria are unable to renew their licences due to the poor remuneration they receive and this impacts their ability to take globally recognised courses which improves their ability to get onto foreign ships.³³ Also, some seafarers have decried the lack of insurance packages for seafarers in Nigeria, something which is paramount in other jurisdictions such as Ghana and the USA.³⁴

Furthermore, seafarers in Nigeria work under deplorable conditions which impacts their living standards.³⁵ The salaries are poor while high workloads and long working hours without adequate hazard payment are prevalent in Nigeria.³⁶ This position is worsened

³⁰ Yusuf Babalola “Why Nigerian Seafarers Can’t Secure Jobs On Foreign Vessels” available at <https://leadership.ng/why-nigerian-seafarers-cant-secure-jobs-on-foreign-vessels/> (accessed 16 September 2024).

³¹ Ibid.

³² Ibid.

³³ Amaka Awuzie “Why Nigerian seafarers fail to secure jobs onboard foreign ships” available at <https://businessday.ng/maritime/article/why-nigerian-seafarers-fail-to-secure-jobs-onboard-foreign-ships/> (accessed 16 September 2024).

³⁴ Ibid.

³⁵ NIMASA “Fair Treatment of Seafarers Must Remain a Priority - Transport Minister” available at <https://nimasa.gov.ng/fair-treatment-of-seafarers-must-remain-a-priority-transport-minister/> (accessed 16 September 2024).

³⁶ Jensen, Olaf & SÃ, rensen, Jens & Thomas, Michelle & Canals, M Luisa & Nikolic, Nebojsa & Hu, Yunping. (2006). Working conditions in international seafaring. Occupational medicine (Oxford, England). 56.

by a trajectory of NIMASA failing to ensure that shipowners honour the Collective Bargaining Agreement with seafarers.³⁷

In addition, seafarers operating in Nigeria who man the ships plying the Gulf of Guinea are susceptible to piracy attacks and kidnappings. Despite a notable decrease in piracy attacks in Nigerian waters, the hijacking and looting of oil cargoes gas has become rampant and any seafarers who resist are either killed or kidnapped.³⁸ These attacks persist with over 1000 seafarers and individuals kidnapped in the past decade. Recently, in January 2024, a ship carrying chemicals was attacked and nine marine officers were abducted.³⁹ These risks and other unfavourable conditions mirror the unique position of seafarers in Nigeria.

In summary, it is important to understand the peculiar circumstances of Nigerian seafarers as it allows one to appreciate why the rights set out in various conventions seem alien to the Nigerian sphere. With a constant battle to fix the basics of certification, gendered perspectives to recruitment⁴⁰ and structural deficiencies in administration, the seafarers in Nigeria are heroes navigating troubled waters in its literal sense.

³⁷ Maritime Today Online “Seafarers Day: Maritime workers berate NIMASA for poor working condition” available at <https://maritimetodayonline.com/seafarers-day-maritime-workers-berate-nimasa-for-poor-working-condition/> (accessed 16 September 2024).

³⁸ UNODC “Maritime Piracy in the Gulf of Guinea” available at https://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West_Africa_TOC_PIRACY.pdf (accessed 16 September 2024).

³⁹ Max Williams “Gulf of Guinea Maritime Security: Lessons, Latency, and Law Enforcement” available at <https://warontherocks.com/2024/05/gulf-of-guinea-maritime-security-lessons-latency-and-law-enforcement/> (accessed 16 September 2024).

⁴⁰ Adaku Onyenucheya “FESAN Decries bias against female seafarers, low employment by ship owners” available at <https://guardian.ng/news/fesan-decries-bias-against-female-seafarers-low-employment-by-ship-owners/> (accessed 16 September 2024).

4.2 Core Rights of Seafarers in Nigeria

The discrepancies between the rights spelt out in the Maritime Labour Convention (MLC) 2006 and what obtains in practice are troubling. These rights, designed to address the daily challenges and risks seafarers encounter, are frequently disregarded by ship owners and shipping companies. This was a common issue worldwide until the adoption of the MLC, which now sets mandatory minimum standards for the treatment of seafarers for all ILO member states that have ratified the convention, including Nigeria.

Nigeria ratified the MLC in 2013 and despite over one decade of interacting with the law, Nigeria has not domesticated the law. Instead, the principles enunciated in the convention have now formed the guiding principles which NIMASA utilises to bridge the gap between seafarers and other stakeholders in the maritime industry in Nigeria. Despite the numerous recognitions of the importance of abiding by the spirit of the Maritime Labour Convention (2006), seafarers in Nigeria continue to undergo unjust treatment with humongous disparities when compared with counterparts across the world.

Hence, this section explores the core rights of seafarers and their practical application in Nigeria, within a global context and in line with international standards. It examines the shortcomings and highlights the gaps between the legal framework and the realities faced by seafarers, identifying key loopholes that hinder the effective enforcement of these rights.

4.2.1 *Fair terms of employment*

All seafarers are expected to have terms of employment to set the tone of their commitment and duties. Seafarers undertake one of the most arduous tasks in the world, as the job is both physically and mentally exerting.⁴¹ Travelling on the sea separates most seafarers from their families and loved ones for long periods, and it only accords with basic human decency that those who sacrifice invaluable family time for months should be adequately rewarded. Article IV of the MLC 2006 provides that every seafarer is entitled to a safe working space that complies with safety standards. It further outlines that every seafarer has a right to fair terms of employment. These terms are not limited to just monetary compensation but encapsulate decent working and living conditions on the ship. These terms must be in tandem with the fundamental rights and principles laid out in Article III of the convention. Article III of the MLC eschews all forms of forced or compulsory labour and discrimination with respect to employment.

Despite these noble provisions, the MLC 2006 has had a chequered impact on the rights of seafarers globally and in Nigeria. With seafarers still subject to the laws of the flag under which they sail, many are subject to unfavourable laws that detract from the standard rights provided by the MLC.⁴² In reality, what the Bill of Rights of Seafarers has done is to create a minimal threshold that is subject to modifications from states.

⁴¹ Muhammad Anyapa Yakubu, "A critical analysis of implementation of MLC 2006 Regulation 2.2 in Nigeria" (2021) The Maritime Commons: Digital Repository of the World Maritime University.

⁴² Bauer, P. J. (2007). The Maritime Labour Convention: An Adequate Guarantee of Seafarer Rights, or an Impediment to True Reforms? *Chi. J. Int'l L.*, 8, 643.

This might be laudable, but it has opened the room for disparities in the welfare of seafarers depending on their locality and the flag under which their ships operate.

In Nigeria, gaps in the laws governing the maritime sector contribute to unfair employment terms for seafarers.⁴³ These legal shortcomings allow shipowners and companies to exploit loopholes, often resulting in substandard working conditions, inadequate pay, and poor welfare benefits for seafarers. Without clear legal protections, seafarers are left vulnerable to exploitation, and many are unable to seek recourse for unfair treatment.

To address this, reforms are necessary to strengthen maritime laws, ensuring they meet international standards like those set by the Maritime Labour Convention (MLC) 2006. Providing a robust legal framework would give seafarers a fair opportunity to seek justice when they encounter unjust employment agreements. Until these gaps are closed, unfair terms in seafarers' employment contracts will persist,⁴⁴ making it crucial for the Nigerian government and maritime authorities to prioritise legal reforms that protect their rights and improve working conditions in the industry.

4.2.2 Decent working and living conditions

The core focus of the MLC 2006 is to safeguard the rights of all seafarers and provide them with decent working conditions. The Convention sets minimum standards for decent working conditions, covering key aspects of seafarers' employment and welfare.

Section 27 of the NIMASA Act empowers NIMASA to regulate matters relating to maritime

⁴³ Couper, A. D., Walsh, C. J., Stanberry, B. A., & Boerne, G. L. (1999). *Voyages of abuse*. London: Pluto Press.

⁴⁴ Lawal, F. T. (2022) 'The implementation of Regulations 4.2 And 4.5 of the Maritime Labour Convention, 2006 in Nigeria' available in https://commons.wmu.se/cgi/viewcontent.cgi?article=3078&context=all_dissertations (accessed 8 September 2024).

labour standards and practices and the protection of the rights and welfare of seafarers with decent living and working conditions of the ILO's international labour standard. It is also important to point out that seafarers' trade unions exist to promote and protect seafarers' interests towards achieving decent working conditions.

NIMASA is legally mandated to ensure that maritime labour employers adhere to regulations and standards concerning crewing, wages, safety, and welfare on Nigerian vessels. This includes enforcing the implementation of agreed-upon collective bargaining agreements or conditions of service, addressing industrial relations issues, and ensuring that seafarers receive their rightful wages and compensation benefits.

However, stakeholders have lamented the gap in the monitoring and enforcement of Nigeria's labour laws and regulations. This gap has enabled companies to take advantage of the economic vulnerability and limited bargaining power of Nigerian crew members, leading to lower wages, poor working conditions, and restricted career opportunities.⁴⁵

Addressing these enforcement shortcomings is essential for protecting the rights of seafarers and promoting a more equitable and sustainable maritime labour environment in Nigeria. Strengthening oversight, ensuring compliance, and enhancing the bargaining power of crew members will be crucial steps toward achieving this goal.

⁴⁵ "Work, living conditions of seafarers in Nigeria, others worsen, says report" *tbiAfrica* 9 August 2023, available at <https://tbiafrica.com/2023/08/09/work-living-conditions-of-seafarers-in-nigeria-others-worsen-says-report/> (accessed 8 September 2024).

4.2.3 Health protection and medical care

Seafarers are exposed to hazards at sea and are entitled to medical care and protection on board any vessel.⁴⁶ This is for the detective carrying out duties; seafarers should have access to prompt medical care from the flag state, as the well-being of seafarers should not take less importance than people ashore.⁴⁷

The health of seafarers is vital to the economic stability and progress of the global economy.⁴⁸ Regulation 4.2 of MLC, 2006 states that shipowners are liable for the financial cost of sickness, injury, or death that happened in relation to the job while aboard. Regulation 4.2 lays the foundation for Regulation 4.3, which captures the need for seafarers work environment to be rid of occupational hazards with their health and safety paramount to prevent accidents. The fragility of our health system for our maritime workers, especially seafarers, was of concern to seafarers in Nigeria, as they suffer from fatigue, stress, and sleeping disorders, which negates the claims that Nigerian seafarers are protected both physically and mentally.

Also, the Merchant Shipping (Health Protection and Medical Care for Seafarers) Regulations, 2001 generally provide mechanisms for safeguarding the rights of seafarers on Nigerian-flagged vessels. Section 1 of the regulations provides that every ship that the regulations relate to shall carry a medicine chest. According to Section 2 of the

⁴⁶ Kenneth C.K “Seafarers Rights in Nigeria” available at [Seafarers' Rights In Nigeria - Employee Rights/ Labour Relations - Employment and HR - Nigeria \(mondag.com\)](https://mondag.com/Seafarers-Rights-In-Nigeria-Employee-Rights-Labour-Relations-Employment-and-HR-Nigeria) (accessed 31 August 2024)

⁴⁷ Asikia, C. I. I., Phd, N. E., Nwabueze, E., Nwolozi, C. N., & Mattias, U. (2022). Healthcare Maintenance and Safety Policy: Evidence from Port Harcourt Seaport. *International journal of geography & environmental management (IJGEM)*, 8(2), 64-88.

⁴⁸ Li, X., Zhou, Y., & Yuen, K. F. (2022). A systematic review on seafarer health: Conditions, antecedents and interventions. *Transport Policy*, 122, 11-25.

same regulations, the content of the medicine chest must be in tandem with the number of people, destination, and duration of the voyage.

In addition, Section 9 of the Merchant Shipping (Health Protection and Medical Care for Seafarers) Regulations, 2001 states that medical advice must be available day and night to all seafarers on the voyage. Specifically, section 9(1) of the regulations provides that “the minister shall ensure by a pre-arranged system that medical advice by radio or satellite communication at sea, including specialist advice, is available at any hour of the day or night. Notably, Section 10 of the regulations mandates that any ship that carries more than 50 seafarers on an international trip for more than three days must have a doctor aboard.

These provisions highlight the commitment of Nigerian law to providing adequate protection for the mental and physical well-being of seafarers, but there has been an issue with reconciling these rights with what is obtained in practice.

4.2.4 Wage

The Nigerian Maritime Administration and Safety Agency (NIMASA) has launched the reviewed minimum wage document for Nigerian seafarers, developed in line with the Maritime Labour Convention MLC 2006 provisions.⁴⁹ The document, which is for 2023-2025, is a product of a collective bargaining agreement that involved employers of

⁴⁹ The Nigerian Maritime Administration and Safety Agency (NIMASA) "Nimasa launches reviewed Minimum Wage Document for Seafarers" available at <https://nimasa.gov.ng/nimasa-launches-reviewed-minimum-wage-document-for-seafarers/> (accessed 1 September 2024).

labour in the maritime sector, the leadership of the Maritime Workers Union of Nigeria, MWUN, NIMASA, and other stakeholders in the industry.⁵⁰

Under the Merchant Shipping Act 2007 (the Act),⁵¹ the seaman working on board a Nigerian vessel has the right to his wages when the seaman commences work or at the time specified in the agreement. Further to the right to receive wages, a seaman also has the following rights: The right not to forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he would be entitled, and so on.

Regulation 2.2 of the Maritime Labour Convention, 2006 sets out the parameters guiding the wages of seafarers and provides that seafarers must receive prompt and adequate payment of their salaries. The regulation states that the payment of salaries must not be greater than a monthly interval in consonance with the applicable collective bargaining agreement. A comprehensive analysis of the implementation of this provision has been conducted, and it revealed two key anomalies: seafarers wages are delayed, and these wages are meagre compared to the global benchmark.⁵² The discrepancy between the wages received by Nigerian seafarers and their global counterparts is huge and does not even meet the stipulated ILO 7.⁵³ Beyond the timely

⁵⁰ The Nigerian Maritime Administration and Safety Agency (NIMASA) "Nimasa launches reviewed Minimum Wage Document for Seafarers" available at <https://nimasa.gov.ng/nimasa-launches-reviewed-minimum-wage-document-for-seafarers/> (accessed 1 September 2024).

⁵¹ Merchant Shipping Act 2007.

⁵² Muhammad Anyapa Yakubu, "A critical analysis of implementation of MLC 2006 Regulation 2.2 in Nigeria" 2021 *The Maritime Commons: Digital Repository of the World Maritime University*.

⁵³ Ibid.

payment of wages, the MLC mandates shipowners to provide an avenue for seafarers to transfer the whole or part of their salaries to family or other named beneficiaries.⁵⁴ Nigeria has not domesticated the MLC and as such the provisions contained in the Convention are not binding legal instruments. The provisions of the regulations are mere guiding principles for NIMASA and industry stakeholders to benchmark against global best practices.

4.2.5 Accommodation and Recreational Facilities

Ensuring seafarers have decent accommodation and recreational facilities on board is essential. The provision must be very decent and safe. Due consideration must be given to the inspection of this accommodation to ensure it is up to the minimum standard set by my international bodies.⁵⁵ The Merchant Shipping (Crew Accommodation) Regulations 2010 provides specific guidelines regarding the accommodation of all Nigerian-going ships. It specifies the mode of building specific sections of the ships like the overhead deck and the flooring. Section 9 of the Merchant Shipping (Crew Accommodation) Regulations 2010 provides that the accommodation on ships must be built with the underlying principles of protecting the crew against injury to the greatest practicable extent, the protection of the crew's accommodation against the weather and the sea, the insulation of the crew accommodation from heat and cold, the protection of the crew accommodation against moisture due to condensation, etc.

Regulation 3.1 of the Maritime Labour Convention (2006), which is a consolidation of the Accommodation of Crews Convention (Revised), 1949 and the Accommodation of

⁵⁴ FRT80 Regulation 2.2, Standard A2.2 (3).

⁵⁵ Maritime Labour Convention 2006.

Crews (Supplementary Provisions) Convention, 1970, lays out specific guidelines for accommodation and recreational facilities. This regulation spells out in detail the nature of the mattress, floor space, locker sizes and other parameters for building on the ship.⁵⁶

5.0 COMPARISON WITH GLOBAL BEST PRACTICES

The difference between the rights of seafarers in Nigeria and other jurisdictions is enormous. As earlier elaborated, seafarers in Nigeria face unique challenges that limit their ability to realise and enjoy the rights outlined to protect them. Despite the ratification of the MLC in 2013, many Nigerian-flagged ships still struggle to meet the minimum expectations for accommodation, food quality, medical care and recreational facilities.⁵⁷

Seafarers on Nigerian-flagged vessels continue to work longer than 8 hours a day and some over the 14-hour in 24-hour threshold recommended by the MLC 2006, which means that the minimum 10 hours of rest in 24 hours is not observed.⁵⁸ This leads to fatigue and burnout for many seafarers, which precludes them from functioning optimally and sometimes leads to accidents at sea.⁵⁹

Nigerian seafarers often earn significantly less than their international counterparts. This gap is especially pronounced when compared with seafarers from developed

⁵⁶ “Merchant Shipping (Maritime Labour Convention) (Enforcement and Compliance) Regulations 2014” International Maritime Law Institute.

⁵⁷ Supra note 54.

⁵⁸ SRI “Hours of Work and Rest” available at <https://seafarersrights.org/sri-seafarer-resources/mlc-advice-for-seafarers/key-topics/hours-of-work-and-rest/> (accessed 17 September 2024).

⁵⁹Asanka Rajapakse & Gholam Reza Emad “Fatigue, an unsolved puzzle that continues contributing to accidents at sea” (2023) *Marine Policy*, Volume 155.

nations or those working on vessels flagged in countries with strong maritime traditions. This pales in comparison to the experience in Denmark, which offers strong labour protections, including high wages, excellent working conditions, and comprehensive social security benefits. Danish seafarers benefit from strong union representation and collective bargaining agreements. Put into perspective, the Danish Maritime Authority recognises that foreign seafarers on Danish ships are entitled to social security protections.⁶⁰

A study conducted by Song *et al.*⁶¹ shows that the average seafarer in China earns wages that are above the national average and the majority of them derive maximum satisfaction from their jobs. This has been very instrumental in making the job attractive to young people but China is still looking for ways to address environmental stress and other issues emanating, like isolation from family and limited access to medical and entertainment facilities onshore.

Conversely, Nigerian seafarers are one of the lowest-paid in the world. The ILO set a benchmark of a minimum of \$1,078 (₦1.7 million currently) for able seamen and a minimum monthly salary of \$6, 633 (₦10.6 million) for a master.⁶² This was made on the premise that the ratification of the MLC 2006 will provide an imperative for states to improve seafarers' welfare but the reverse has been the case in Nigeria. A decade after Nigeria ratified (2013) the MLC 2006, Nigerian seafarers do not earn something

⁶⁰ Danish Maritime Authority "Foreign seafarers on Danish ships" available at <https://www.dma.dk/seafarers-and-manning/conditions-of-employment-mlc/foreign-seafarers-on-danish-ships> (accessed 17 September 2024).

⁶¹ Song, L., Huang, Z., Zhang, H., Tian, K., Yin, N., Xu, Y., ... & Zheng, C, "The urgency to address the occupational health of Chinese seafarers for sustainable development," (2021) *Marine Policy*, 129, 104518.

⁶² Shulamite Foyeku "Nigerian seafarers among lowest paid in the world" available at <https://shipsandports.com.ng/nigerian-seafarers-among-lowest-paid-world/> (accessed 3 September 2024).

remotely close to those benchmarks. Instead, the average monthly pay for a seafarer in Nigeria is \$694 (₦1.1 million currently), despite noting that the global average is between \$4,000 and \$8,000.⁶³ This is exacerbated by poor working conditions such as a lack of robust medical insurance and hazard allowances.

Also, unlike many maritime nations, Nigeria lacks a comprehensive social security system for seafarers. This leaves many Nigerian seafarers without adequate protection in cases of long-term illness, disability, or retirement. The Philippines is known for its comprehensive approach to seafarer welfare. The Philippines has established a strong legal framework protecting seafarers' rights. The country has a dedicated agency (POEA) overseeing the deployment and welfare of seafarers and has implemented robust pre-deployment training and orientation programs.⁶⁴ However, it must be noted that the Philippines had been struggling to reconcile the interests of big actors with the interests of seafarers.

In addition, while Nigeria has made efforts to align with STCW (Standards of Training, Certification and Watchkeeping) requirements, there are still concerns about the quality and recognition of some Nigerian maritime education institutions. Singapore has implemented stringent safety standards and provides excellent training facilities. The Maritime and Port Authority of Singapore works closely with industry stakeholders to ensure high standards of seafarer welfare and competency.

⁶³ Ibid.

⁶⁴ Pia, J. V. P., Galam, R., & Bartusevičienė, I, "Regulating seafarers' welfare: an examination of the protection of Filipino seafarers' well-being through a legal analysis of the POEA-Standard Employment Contract" (2024) *International Maritime Health*, 75(1), 10-18.

Nigeria can learn from the approach of these nations and even our West African neighbour, Ghana, to improve the lots of seafarers on Nigerian-flagged vessels.

6.0 IMPACT OF COVID-19 ON NIGERIAN SEAFARERS

The COVID-19 pandemic had a devastating impact on the maritime industry globally. The pandemic ushered in an era of quarantines, border closures, social distancing, and self-isolation for the general public. But for the seafarers, it was a period of repatriation issues, renewals of certificates, resupply, crew changeovers, abandonment by ship owners, and licensing of seafarers, among many others.⁶⁵ Lucas *et al.* find that the COVID-19 pandemic left over 40,000 seafarers stranded at sea, leading to mental health and psychological issues.⁶⁶

There was a plethora of negative issues that the pandemic raised against the physical, mental and financial state of seafarers, ranging from depression to difficulty in repatriation of funds to family to boredom.⁶⁷

Nigerian seafarers were not spared from the agonies of the pandemic. Okeleke and Aponjolosun⁶⁸ show that a major impact of the pandemic on Nigerian seafarers was the disruption in their ability to discharge their contracted duties. Many Nigerian seafarers were under extreme pressure with an increasing workload and minimal support from the management of the ship during the extended period, which were not conceived by

⁶⁵ Doumbia-Henry, C., "Shipping and COVID-19: protecting seafarers as frontline workers," (2020) *WMU Journal of Maritime Affairs*, 19, 279-293.

⁶⁶ Lucas, D., et al, "Seafarers' mental health in the COVID-19 era: lost at sea?" (2021) *International maritime health*, 72(2), 138-141.

⁶⁷ Coutroubis, A. D., et al, "Impact of Coronavirus Disease (COVID-19) on seafarers' life and well-being" (2021) *International Journal of Tropical Disease & Health*, 41(21), 16-27.

⁶⁸ Okeleke, U. J., & Aponjolosun, M. O, "A study on the effects of COVID-19 pandemic on Nigerian seafarers" (2020) *Journal of Sustainable Development of Transport and Logistics*, 5(2), 135-142.

the contractual arrangements of each seafarer.⁶⁹ These issues were worsened by the low vaccination rate of seafarers, crew changeovers, and the anxiety around repatriation of stranded workers.⁷⁰

Ozabor, Kpang, and Obisesan⁷¹ highlight the dire economic impacts of the pandemic on seafarers in Nigerian coastal communities. The study reveals that the shortage in movement of goods and services affected the economic fortunes of seafarers as there were few ships to work on. Additionally, it found that the pandemic led to many seafarers entering into poverty and struggling to make ends meet.⁷²

The right of seafarers to decent working conditions, health protection, medical care, and welfare protection eroded during the pandemic in most parts of the world, including Nigeria.⁷³ Timilsina and Baygi⁷⁴ argue that the use of the COVID-19 guidelines can have profound benefits for the physical and mental health of seafarers but they find that the guidelines could not adequately address the concerns of repatriation and other unfavourable conditions.

Ultimately, the COVID-19 pandemic presented new dimensions and frontiers for the rights of seafarers. The issues along the extended contract period remained a major issue but the most pressing were the health protection of Nigerian seafarers. The

⁶⁹ Ibid.

⁷⁰ Wong, C. P., "Impact of the COVID-19 pandemic on the well-being of the stranded seafarers" (2023) *Maritime Business Review*, 8(2), 156-169.

⁷¹ Ozabor, F., et al, "Social and economic wellbeing of seafarers across coastal Nigeria amidst Corona virus disease" (2023) *Heliyon*, 9(8).

⁷² Ibid.

⁷³ Timilsina, A. & Baygi, F., "COVID-19 guidelines and its perceived effect on seafarers' health and wellbeing: A qualitative study" (2023) *Plos one*, 18(4), e0284155.

⁷⁴ Ibid.

pandemic highlighted the systemic failure to guarantee a safe and secure working environment for seafarers in Nigeria.

7.0 SPOTLIGHTING NIMASA’S INITIATIVES TO ENHANCE SEAFARERS' RIGHTS AND WELFARE IN NIGERIA

The rights of seafarers in Nigeria have come under increasing scrutiny, particularly in light of the challenges posed by the COVID-19 pandemic. As essential workers, seafarers have been pivotal in maintaining global supply chains, yet their rights often remain inadequately protected. Despite their recognition as the lifeblood of the industry, issues such as unpaid wages, harsh working conditions, and inadequate repatriation processes persist. Furthermore, despite the available legal framework, enforcement remains a significant challenge due to regulatory gaps and the influence of vessel owners, who prioritise profit over compliance.

The Nigerian Maritime Administration and Safety Agency (NIMASA), as the principal agency regulating the industry, has taken some initiatives over the years to enhance the welfare of seafarers in Nigeria. These efforts are crucial for addressing the systemic issues that have long plagued seafarers. The reality is that Nigeria has the potential to be a maritime powerhouse, with the right policies in place.

NIMASA has attempted to improve the welfare of seafarers through initiatives such as the Nigerian Seafarers Development Programme (NSDP) and the Collective Bargaining Agreements (CBA).⁷⁵ In 2008, NIMASA initiated the Nigerian Seafarers Development

⁷⁵ “NIMASA and the Nigerian Seafarer” *BusinessDay* 1 July 2024, available at <https://businessday.ng/news/article/nimasa-and-the-nigerian-seafarer/> (accessed 10 September 2024).

Programme (NSDP) to train Nigerian youths to become seafarers and naval architects, fulfilling one of the Agency's core mandates of Indigenous maritime capacity building. The program was created to train Nigerian youths up to the degree level in Marine Engineering, Nautical Sciences and Naval Architecture in the best Maritime Training Institutions (MTIs) abroad. The goal is to position the recipients for competitive success in the global maritime industry as a means of developing Nigeria's maritime space.⁷⁶

2,476 cadets were reported to have registered in the program as of July 2024; 979 of them had graduated and received their certificates of competency (COC). Over the last 14 years, 153 beneficiaries withdrew from the program, and regrettably, 12 beneficiaries of the program passed away.⁷⁷ In December 2023, NIMASA signed a training agreement with the Nigerian Liquefied Natural Gas Ship Management Limited (NSML) to facilitate Certificate of Competency (CoC) examinations, which is the final stage of the NSDP, for beneficiaries.⁷⁸ Despite these efforts, the operation of the program has been faulted on the basis that NIMASA was sending Nigerians out of the country to obtain certificates that the Agency could issue, hence calls for a review of the program and that participants in the program should not be limited to cadets.⁷⁹

The NIMASA has also launched a reviewed minimum wage document for Nigerian Seafarers, in line with the provisions of the Maritime Labour Convention (MLC) 2006, in

⁷⁶ "NIMASA developing Nigerian Seafarers through Cabotage implementation," available at <https://nimasa.gov.ng/nimasa-developing-nigerian-seafarers-through-cabotage-implementation/> (accessed 10 September 2024).

⁷⁷ "NIMASA and the Nigerian Seafarer" *BusinessDay* 1 July 2024, available at <https://businessday.ng/news/article/nimasa-and-the-nigerian-seafarer/> (accessed 10 September 2024).

⁷⁸ "NIMASA, NSML partner to Train 150 NSDP Cadets," available at <https://nimasa.gov.ng/nimasa-nsml-partner-to-train-150-nsdp-cadets/> (accessed 10 September 2024).

⁷⁹ "Seafarers fault overseas training for cadets" *The Punch* 4 January 2024, available at <https://punchng.com/seafarers-fault-overseas-training-for-cadets/> (accessed 10 September 2024).

May 2024.⁸⁰ The document for 2023-2025 was a product of a collective bargaining agreement that involved relevant stakeholders in the maritime sector.⁸¹ The agreement provides for an increase in wages, allowances and benefits. It also makes provisions that terminal operators pay aged dockworkers' redundancy and retirement benefits, give specific allowances to the surviving family members of deceased dockworkers, and implement a pension contribution plan for dockworkers, among other provisions.⁸²

It is anticipated that over time, the advantages of these two NIMASA-facilitated initiatives would benefit seafarers in Nigeria and the maritime industry at large, confirming the investments and policy endeavours undertaken by the sector's premier regulatory body.

As discussions around seafarers' rights continue to evolve, it is crucial to push for comprehensive reforms that not only align with international standards but also address the specific needs and challenges faced by Nigerian seafarers. This approach ensures that policies are not only globally relevant but also practically beneficial to those within Nigeria's maritime industry.

⁸⁰ "NIMASA launches Reviewed Minimum Wage Document for Seafarers," available at <https://nimasa.gov.ng/nimasa-launches-reviewed-minimum-wage-document-for-seafarers/> (accessed 10 September 2024).

⁸¹ Ibid.

⁸² "NIMASA and the Nigerian Seafarer" *BusinessDay* 1 July 2024, available at <https://businessday.ng/news/article/nimasa-and-the-nigerian-seafarer/> (accessed 10 September 2024).

8.0 CHALLENGES IN IMPLEMENTING SEAFARERS' RIGHTS IN NIGERIA

This section mirrors the factors that postpone the realisation and true enjoyment of the seafarers' rights as laid out in different conventions. It highlights the structural problems that, despite the fervent advocacy for better working conditions for seafarers in Nigeria by experts and other maritime bodies, render the efforts of private organisations and individuals less successful. It is expected that a resolution of the issues highlighted below will provide a tangible roadmap to building a maritime workforce that is in tandem with global best practices.

The first and major challenge is the lack of ratification and domestication of international maritime conventions. In general terms, Nigeria is a compliant member of the international community in terms of participation and discharge of obligations under international treaties. The country arguably has a good participation record in almost all the twenty-nine (29) subject areas into which the multilateral treaties deposited with the UN Secretary-General are classified.⁸³

The non-implementation and enforcement of the IMO maritime conventions affect investments in the country as investors are concerned about the uncertainty and unpredictability of legal proceedings and legislative implementations.⁸⁴ For example, the Maritime Labour Convention (2006) has been ratified since 2013 by the Nigerian government but has not been domesticated. In the same vein, NIMASA has shown a trajectory of lip service to pushing for the implementation of the MLC with its periodic

⁸³ Aliyu H “The Challenges of Implementing International Treaties in Third World Countries: The Case of Maritime and Environmental Treaties Implementation in Nigeria” (2016) 50 Journal of Law, Policy and Globalization.

⁸⁴ A. Onyenucheya, “Lingering challenges, poor infrastructure undermine Nigeria’s chances at IMO,” (The Guardian, 22 September 2021) available at <https://guardian.ng/business-services/maritime/lingering-challenges-poor-infrastructure-undermine-nigerias-chances-at-imo/> (accessed 10 September 2024).

news releases and media briefings on World Seafarers Day calling for the protection of seafarers' rights.⁸⁵

Furthermore, Nigeria has failed to ratify several relevant conventions, which include but are not limited to, the Minimum Wage Fixing Convention, 1970; the Paid Educational Leave Convention, 1974; the Maintenance of Social Security Convention, 1982; and the Occupational Safety and Health (Dock Work) Convention, 1979, among many others.⁸⁶

This attitude shows a lack of political will to provide robust frameworks for the protection of seafarers' rights in Nigeria, especially in line with global best practices.

Accordingly, one observes a disconnect between the enthusiasm of the Nigerian Government to participate and be a state party to major international maritime treaties and conventions and the country's ability and willingness to implement and enforce the obligations and standards embodied in those treaties and conventions.

As observed earlier, a cursory examination of the extant policies, regulations, and practices in the Nigerian maritime sector reveals a wide gap between treaty obligations and prevailing practices. It would seem that critical maritime institutions are handicapped by a range of challenges, including technical capacity, workforce and skills shortages, funding, systemic inefficiency, and corruption. All of these limits their

⁸⁵ Maritime Today Online "Seafarers Day: Maritime Workers Berate NIMASA for Poor Working Conditions," available at <https://maritimetodayonline.com/seafarers-day-maritime-workers-berate-nimasa-for-poor-working-condition/> (accessed 17 September 2024).

⁸⁶ ILO "Up-to-date Conventions and Protocols Not Ratified by Nigeria" available at https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11210:0::NO::P11210_COUNTRY_ID:103259 (accessed 17 September 2024).

capacity and ability to ensure adequate and consistent compliance with international standards in several operational and developmental aspects of the maritime sector.

Bureaucracy and corruption are also longstanding issues in Nigeria's maritime sector. Cumbersome administrative procedures, coupled with corruption at various levels, not only lead to inefficiencies but also deter foreign investment. Bribery and corruption in the NIMASA's NSDP have been partly responsible for the unemployment of seafarers. There are reports that NIMASA accepts waivers for junior officer positions, which are only allowed if the local equivalent of those skills is not available locally.⁸⁷ Regrettably, most of the NSDP trained seafarers are competent to occupy most of these positions, but find themselves being displaced by foreigners.⁸⁸

9.0 RECOMMENDATIONS AND CONCLUSION

Safeguarding the rights of seafarers in Nigeria requires a comprehensive approach that blends the adoption of international conventions, reforms to national legislation, and practical measures to address their unique challenges. To start, Nigeria must prioritise the domestication and enforcement of the Maritime Labour Convention (MLC) 2006. This international framework provides a solid foundation for the protection of seafarers' rights by ensuring decent working conditions and defining the legal responsibilities of flag states and shipowners. It is essential for Nigeria to not only domesticate this convention but to ensure regular inspections and impose penalties for any violations, ensuring adherence to global standards.

⁸⁷ "Ending Exploitation of Nigerian Seafarers" This Day, available at <https://www.thisdaylive.com/index.php/2019/05/10/ending-exploitation-of-nigerian-seafarers/> (accessed 18 September 2024).

⁸⁸ Ibid.

Domestically, amendments to the Merchant Shipping Act 2007 are crucial to aligning it with modern standards of crew welfare, employment contracts, and dispute resolution. Moreover, Nigeria's Labour Act must be reviewed to address the specific working conditions faced by seafarers, such as long-term contracts, the right to repatriation, and compensation for injuries sustained at sea. To support these legislative changes, a National Seafarers' Welfare Board should be established, functioning as an independent body overseeing seafarers' welfare, compliance with laws, and mediation in disputes between employers and workers.

Legal protection and access to justice are critical pillars in safeguarding seafarers' rights. Creating a specialised Ombudsman Office for Seafarers would also serve as an effective mechanism for handling grievances, from abuse and withheld wages to unsafe working conditions. This office would ensure that complaints are swiftly investigated and resolved in a transparent and impartial manner. Complementing these efforts, Nigeria could create a national seafarers' pension fund tailored to ensuring financial security post-service or in the event of workplace injuries. Health and safety must also take precedence, with comprehensive health insurance packages mandated for all seafarers. These packages should cover both physical and mental health care, given the unique stresses and isolation faced by workers at sea. Additionally, regular safety audits should be conducted on vessels to ensure compliance with health standards, alongside mental health awareness campaigns aimed at preventing burnout and promoting resilience.

Improving working and living conditions on board vessels is another priority. This can be achieved by introducing minimum wage requirements, setting clear standards for

the timely payment of wages, and mandating that vessels provide adequate living conditions such as clean water, nutritious food, and recreational spaces. To ensure that seafarers can collectively advocate for better conditions, trade unions must be empowered through legislative support, enabling them to negotiate better wages, improved working conditions, and enhanced job security.

Education and training also play a critical role in the long-term welfare of seafarers. Mandatory skills development programs should be established to equip them with the necessary tools for safety, financial literacy, and mental well-being. These programs would also provide education on international rights under conventions like the MLC, so seafarers know how to report violations and seek redress.

Addressing the problem of exploitation and human trafficking in the maritime sector is crucial. Nigeria could partner with international organisations to develop anti-trafficking measures aimed at preventing the exploitation of seafarers, particularly those working on foreign-flagged vessels. A secure identification system, such as a seafarers' passport or ID scheme, should be mandated to prevent identity fraud and protect against illegal recruitment. Repatriation rights are equally important. Clear protocols should be mandated in employment contracts, and employers who fail to comply should face strict penalties. Additionally, an emergency seafarer assistance fund could be established to help repatriate stranded seafarers due to employer negligence or vessel abandonment.

Incorporating technology into these solutions is also valuable. A digital monitoring system for vessels would allow authorities like NIMASA to ensure compliance with safety

and welfare regulations. An app for seafarers to report violations anonymously could further enhance their protection while offering resources on their legal rights.

Public awareness and advocacy campaigns should be rolled out to highlight the importance of the maritime industry and the rights of those working within it. Partnering with NGOs could help bolster advocacy efforts and bring about greater labour protections. Regional cooperation is also key, with Nigeria collaborating with neighbouring countries to protect seafarers working on foreign vessels and establishing a West African maritime safety network.

Finally, gender inclusion and anti-discrimination policies must be prioritised to protect all seafarers. This includes developing programs to encourage more women to join the industry and enforcing strict policies to combat harassment and discrimination. Together, these strategies will strengthen the framework for safeguarding seafarers' rights in Nigeria, ensuring their dignity, safety, and fair treatment.

In conclusion, safeguarding seafarers' rights in Nigeria requires a multifaceted approach that combines international commitments, legislative reforms, institutional strengthening, and practical measures. By ratifying and domesticating key conventions, amending outdated laws, and creating specialised support systems like the National Seafarers' Welfare Board and an Ombudsman Office, Nigeria can significantly improve the welfare and working conditions of its seafarers. Ensuring adequate health and safety protections, promoting access to justice, and fostering gender inclusivity will further enhance their rights. Through collaboration with regional partners and the integration of technology, Nigeria can create a more secure and equitable maritime sector. These actions, taken together, will not only uphold the dignity of seafarers but also position

Nigeria as a leader in maritime labour rights, ensuring that its seafarers are valued, protected, and empowered in a globalised industry.