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From Marx to Market: A Legal and Empirical Analysis of the Maritime Labour Convention in China

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Lijun Zhao^{a *}, *Pengfei Zhang*^{b *}, *Minghua Zhao*^{b,c}, *Gaochao He*^{d,e}

a The City Law School, City, University of London.

b Professor, Navigation College, Jimei University, Xiamen, China;

c Emeritus Professor, Southampton Solent University.

d Johns Hopkins University, East Asia Studies Program, Baltimore, USA

e Labor and Worklife Program, Harvard Law School, USA

* (Corresponding author) Email: Lijun.Zhao@city.ac.uk; shippinglan@163.com

Abstract

Shipping is the ‘invisible’ backbone that keeps the global economy moving, even during the COVID-19 crisis. This article examines the extent to which seafarers have access to satisfactory shore-based welfare services/facilities (SBWS) that meet global regulatory standards under the Maritime Labour Convention (MLC). In particular, this article provides an empirical analysis of the implementation of relevant laws and MLC in European countries and China. While China has become a dominant player in world trade in recent years, the existing literature (especially in English) pays little attention to China’s implementation of MLC provisions, including SBWS provisions. To bridge this research gap, this article critically evaluates SBWS in practice in China, using manually-collected data, and compares China’s arrangements with those of European countries. After exploring the different models adopted by Western countries and China, the article evaluates key SBWS providers in China through various lenses – past, present and future initiatives.

Keywords:

Maritime Labour Convention; Implementation; Empirical evidence in China; Shore-based welfare services and/or facilities (SBWS); Christianity-based model; Marxist-Maoist-based model; From Marx to Market; Public-Private Partnership

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The Chinese government has accepted our advice and has established an International Seafarers' Centre in Shanghai (Yangshan). The errors remain the authors' responsibility. Disclaimers apply.

Conflict of interests: No.

I. Introduction

Shipping is the 'invisible' backbone that keeps the global economy moving on any day, even during the COVID-19 crisis.¹ More than 80 per cent of global trade is carried by merchant ships, crewed by approximately 1.6 million seafarers.² Nevertheless, during the pandemic, shipping and seafarers scarcely featured in most people's minds as a 'key sector', with its own 'key workers'.³ People have become so used to buying cheap household appliances, electronic products and cars, assembled thousands of miles away and carried over long distances by seafarers – that the 'invisible backbone' has become exactly that invisible.

This off-shore workforce, nevertheless, enables populations across the globe to enjoy higher levels of prosperity and comfort. Contrary to what most people think, seafarers are actually the 'indispensable workforce' that makes this possible. Seafarers remain forgotten and mysterious in the eyes of the public, civil society, governments and researchers. It is often overlooked that they are not an exception, to the human need for belonging, affection, and social needs.⁴

Unlike land-based workers, seafarers are isolated and face unique but more challenges.⁵ Moreover, the COVID-19 pandemic⁶ has escalated the challenges⁷ facing States and vulnerable seafarers.⁸ All these have formed a vicious circle that will harm global trade, all countries and average consumers.

For these reasons above, it is now crucial to understand, assess and, where necessary, improve shore-based welfare services/facilities (SBWS) for visiting seafarers. This article aims to explain the misunderstood and unrealised nature of shore-based welfare for the off-shore workforce. It argues that shore-based welfare is indispensable for seafarers' well-being (physical and particularly mental health) and the smoothness of global trade. This article addresses legal and practical issues in this field, as the dual perspectives need to be linked – the topic demands it. Accordingly, this article takes a multidisciplinary approach to examine relevant existing laws and the extent to which seafarers have access to satisfactory SBWS consistent with the global regulatory framework.

This article is structured as follows: Part II examines the existing literature to identify the gaps and research question. Part III outlines the methodology. The remainder of this article

¹ IMO, COVID, "White list" and Training in Focus (16/02/2021).

² UNCTAD, *Review of Maritime Transport* (2018) 2, 46.

³ E.g. IMO, Circular Letter No.4204/Add.35 (14/12/2020).

⁴ A. Maslow, A Theory of Human Motivation, (1943)50 *Psychological Review* (4) 370–396. J. Haidt, *The Happiness Hypothesis* (Arrow 2006) 107-134.

⁵ See Section II.A.

⁶ E.g. UNCTAD, 'Facilitating Crew Changes and Repatriation of Seafarers during the COVID-19 Pandemic and beyond' (22/03/2021).

⁷ Ibid. UNCTAD (n 6). See details in Section V.C-D.

⁸ We manually collected empirical data on COVID-related port restrictions from online datasets filed by industry networks, eg. ITF and others, Data from ITF Seafarers: Your port of Call Online, (data updated up to July 2020), <<https://www.thinglink.com/card/1301500120591761410>>. All internet sources cited in this article last accessed 01/02/2023.

offers dual perspectives: law as outlined in relevant, authoritative sources; and law as experienced in action. This article scrutinises the global regulatory framework, particularly the Maritime Labour Convention (MLC) 2006 as amended,⁹ then presents empirical evidence and hand-collected data to evaluate the effectiveness of MLC, with particular reference to the Chinese experience.

II. Literature review and addressing a research question

A. *The need for seafarers' shore-based welfare: Why is it important?*

Different from land-based jobs, shipping is a particularly challenging endeavour. Firstly, seafarers undertake lengthy, complex, and highly stressful jobs.¹⁰ Even though there is a regular work-and-rest regime onboard, 'off-work' seafarers still have to work.¹¹ They handle hazardous cargoes, experience severe weather, and encounter other perils at sea.¹² These factors generate a demanding workload and can cause health and safety hazards.¹³ Secondly, a ship is an isolated place.¹⁴ This is the crew's workplace and where they live, sleep, and socialise.¹⁵ Although some modern ships have communication equipment, the Internet at sea is usually costly for most seafarers.¹⁶ Thus, working off-shore makes seafarers physically and mentally stressed, isolated and exhausted.¹⁷ To offset these hardships, visiting and using SBWS provide an indispensable opportunity for crews to relax, socialise and (re)connect with families/friends and society.

B. *The Maritime Labour Convention (MLC)*

MLC sets out seafarers' rights, including those regarding SBWS; it imposes corresponding duties on port States, as consolidated under this convention.¹⁸ In this way, it sets forth *minimum global standards* for living-and-working conditions of seafarers. MLC has been ratified globally by most countries, establishing a crucial, universal global regulatory framework.¹⁹

Before examining the extent to which a State has implemented MLC provisions on SBWS, firstly, the most relevant provisions must be introduced, since this underpins any appropriate

⁹ ILO, Maritime Labour Convention 2006 (MLC), as amended in 2014, 2016 and 2018, <<http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>>.

¹⁰ M. Oldenburg and H. Jensen, 'Maritime welfare facilities-utilization and relevance for the compensation of shipboard stress' (2019)14 *J. of Occupational Medicine and Toxicology* (1), 11.

¹¹ G. Exarchopoulos, et al, Seafarers' Welfare: A Critical Review of the Related Legal Issues under the Maritime Labour Convention 2006, (2018)93 *Marine Policy*, 62-70. Birgit Pauksztat, "Only work and sleep": Seafarers' Perceptions of Job Demands of Short Sea Cargo Shipping Lines and their Effects on Work and Life on board, (2017)44 *Maritime Policy & Management* (7) 899-915.

¹² M. Oldenburg, X. Baur, and C. Schlaich 'Occupational Risks and Challenges of Seafaring', (2010) 52 *J. of Occupational Health* (5) 249-56.

¹³ P. Zhang and M. Zhao, Maritime Health of Chinese Seafarers, (2017)83 *Marine Policy* 259-67.

¹⁴ Ibid. Pauksztat (n 11).

¹⁵ T. Xu and P. Zhang, Rethinking the Concept of Seafaring Labor, (2016)6 *J. of Shipping and Ocean Engineering* 221-25.

¹⁶ We discovered this problem through our fieldtrips/interviews. See details in Sections VI-VII.

¹⁷ T. Alderton, et a., *The Global Seafarer: Living and Working Conditions in Globalized Industry* (ILO 2004).

¹⁸ See details in Section IV.

¹⁹ ILO, Ratifications of MLC, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312331>.

empirical research framework for assessing the effectiveness of the law. Article IV of MLC stipulates that "... every seafarer has the right to health protection, medical care, welfare measures and other forms of social protection..."²⁰ Article IV is further elaborated under MLC Title 4 (Access to Shore-Based Welfare Services)²¹ and clarified by the associated *Standards* and *Guidelines* of MLC,²² which prescribe that States shall "ensure that seafarers working onboard a ship have access to shore-based facilities and services to secure their health and well-being."²³ The scope and effect of these provisions are considered in detail later.²⁴

C. Context of current research and identifying the research gap

Also, other factors are relevant in considering practical application of the above-mentioned global regulatory framework. These include the world shipping industry has undergone significant restructuring over the last four decades.²⁵ While ships become larger, crews have become smaller and more multi-national; turnaround time has become shorter, with ports now busier, larger, deeper and increasingly located in more remote areas.²⁶

In China, as in many other parts of the world, the expansion of existing ports and development of new, larger ports, are now located far from cities, making city-based SBWS increasingly out of reach for global seafarers from visiting merchant ships which, due to their upsizing, require deeper water berths. For instance, in the new ports, such as Yangshan (Shanghai) and Beilun (Ningbo), few SBWS were available for visiting seafarers (see Table 1: Fieldtrips).

Such structural changes inevitably have had a profound impact on SBWS.²⁷ Seafarers are sensitive to such changes; research has already reported on seafarers' experiences of SBWS provision (or lack thereof).²⁸ Although a few researchers argued that seafarers sometimes have "sufficient time" since routine tasks can, to some extent, be shifted to shore-based personnel,²⁹ most studies have demonstrated that seafarers typically now have shorter shore leave, and their SBWS has been reduced.³⁰ Port calls tend to be associated with more intense workloads for the crew, especially officers.³¹

Nevertheless, the findings are incomplete. Knowledge obtained from systematic empirical research on SBWS is limited. To what extent the global regulatory framework/standards under MLC are implemented remains uncertain. There are two large-scale global surveys of seafarers' experiences of SBWS provision (or lack of it):³² One such study is the ITF/MORI survey on

²⁰ MLC Article IV (Seafarers' employment and social rights).

²¹ MLC Regulation 4.4 (Access to shore-based welfare facilities).

²² See Section IV.

²³ MLC Regulation 4.4 (n 21).

²⁴ Section IV.

²⁵ UNCTAD (n 2).

²⁶ Alderton (n 17). UNCTAD, 'Container Ports: the Fastest, the Busiest, and the Best Connected', 2019, <<https://unctad.org/news/container-ports-fastest-busiest-and-best-connected>>.

²⁷ ILO, The Impact on Seafarer's Living and Working Conditions of Changes in the Structure of the Shipping Industry, doc.JMC/29/2001/3 (ILO 2000).

²⁸ See summary in the following paragraphs and accompanying footnotes.

²⁹ Oldenburg and Jensen (n 10), 11.

³⁰ H. Benamara, et al, Container ports: the fastest, the busiest, and the best connected (UNCTAD 07/08/2019), <<https://unctad.org/news/container-ports-fastest-busiest-and-best-connected>>. See Pauksztat (n 11), 899.

³¹ Ibid. M. Levinson, *The Box: How the Shipping Container Made the World Smaller and the World* (Princeton University 2006).

³² ITF/MORI, *MORI Seafarers' Living Conditions Survey Interpretative Report* (ITF House, 1996). E. Kahveci,

world seafarers' living conditions, conducted in the 1990s.³³ That survey found that SBWS, particularly international telephone/communication facilities and transportation services (to shops/city centres), were highly important for visiting seafarers.³⁴ The other study is more recent: Kahveci's survey on SBWS in the mid-2000s.³⁵ Kahveci provides further findings on seafarers' shore leave and access to shore-based Seafarers' Centres.³⁶ Although updated in 2016³⁷, this empirical research became dated, given how rapidly the industry practice is changing. Besides the two aforementioned empirical research, there were two recent small-scale works concerning the UK³⁸ and Canada:³⁹ data in the former were collected before the pandemic, while the latter addressed the pandemic but did not include its collected data.

Essentially, the existing studies in this area show a considerable gap between supply and demand regarding accessible SBWS for visiting seafarers.⁴⁰ They might have little knowledge about available SBWS.⁴¹ Moreover, research show that seafarers face significant barriers in obtaining SBWS, including shorter port stays of visiting ships, high workload onboard, inadequate/lack of port-based transportation services (for shopping and/or sightseeing), and internet access,⁴² as well as COVID-related restrictions⁴³ (Table 3).⁴⁴

Gaps still exist. The studies beating these findings have broad geographical coverage and provide knowledge on global seafarers' access to SBWS in ports of a large number of States.⁴⁵ Oddly, however, given the scale of its operations, China does not appear in nearly all studies.⁴⁶ Existing research has focused on Western countries but paid little attention to the East, though the centre of gravity of maritime supply chains is shifting away from the West.⁴⁷

It should be noted that China is the second-largest economy globally: a vast number of goods enter and leave China every day, and such movement of goods contributes a large share of global trade.⁴⁸ Also, China has nearly half of the world's top 20 ports.⁴⁹ Those ports are the busiest globally, involving the services of 1.65 million global seafarers, however temporary.⁵⁰ Additionally, China also ratified MLC in 2016.⁵¹ This combination of these factors creates a

Port Based Welfare for Seafarers: Summary Report (Cardiff University 2006). ITF, et al, *Port-based Welfare Services 2016 Survey* (ITF House 2016).

³³ ITF/MORI, *Ibid.*

³⁴ *Ibid.*

³⁵ Kahveci (n 32).

³⁶ E. Kahveci, *Port Based Welfare Services: A Further Analysis* (Cardiff University 2007).

³⁷ ITF (n 32).

³⁸ H. Sampson, et al, *Overstretched and under-resourced': the corporate neglect of port welfare services for seafarers*, *Maritime Policy and Management* (2022), doi.org/10.1080/03088839.2022.208478.

³⁹ J. Zuidema, et al, *Port-based seafarers' welfare in Canada: resources and gaps*, *Marine Policy* 147 (2023)105336.

⁴⁰ Maslow (n 4). Haidt (n 4). Oldenburg (n 12). Zhang and Zhao (n 13).

⁴¹ ITF (n 32). Kahveci (n 32). Kahveci (n36). Zuidema (n 39).

⁴² *Ibid.*

⁴³ Wilhelmsen, et al, *Empirical Data on COVID-19 Global Port Restrictions* (updated by port-based agents up to 23/01/2023) [Dataset], <<https://www.wilhelmsen.com/ships-agency/campaigns/coronavirus/coronavirus-map/>>.

⁴⁴ E.g. ITF (n8).

⁴⁵ Oldenburg and Jensen (n 10). ITF/MORI (n 32). Kahveci (n 32). Zuidema (n 39).

⁴⁶ Our pilot research on China discussed SBWS before the pandemic, particularly regarding the port-based transportation services for seafarers, see M. Zhao, et al, *Port based welfare services in Chinese ports: Their roles, changes and challenges*, *Marine Policy* (2021), 130.

⁴⁷ E.g. M Stopford, *Maritime Economics* (Routledge, 2009), 5-7.

⁴⁸ UNCTAD (n 2), 63-82; Drewry Maritime Research, *Ports and Terminal Insight* (2018) 1.

⁴⁹ *Ibid.*

⁵⁰ ACFTU, *China has become the country with the largest number of seafarers in the world* (01/04/2021).

⁵¹ MLC (n 19).

timely opportunity to evaluate current provisions and show the importance of ensuring accessible, essential SBWS in China to benefit Chinese ports, global visiting seafarers, and smooth global trade operations.

As mentioned above, given China’s prominent role in today’s global trade, we seek to narrow the research gap in the treatment of different areas of the globe in this field, while deepening our pilot research.⁵²

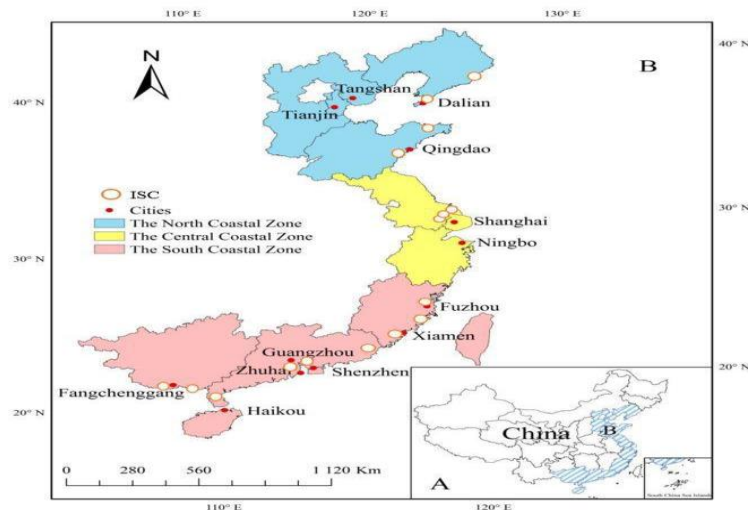
The pandemic has acted as an additional spur. COVID-19 presented unprecedented and often unacknowledged challenges in global trade and to vulnerable seafarers.⁵³ The shipping industry, governments, and international civil society organisations all need to draw on lessons from the pandemic for the future and pay attention to the availability of global seafarers’ access to SBWS. That is also why this article employs the dual perspectives.

D. Aims, scope, and limits of the present research

This article explains the misunderstood and unrealised nature of SBWS for the off-shore workforce. As a natural extension of our previous research,⁵⁴ this article aims to continue narrowing the research gap by conducting analyses from comparative, legal and empirical perspectives. More importantly, it considers the real-world effectiveness of MLC provisions on SBWS, and compares the legal practice in Western countries and China, which provides implications for policy-makers and regulators – at the international and national levels.

Given that China is the fourth largest country globally, conducting research in all Chinese ports would be impossible. Despite this apparent limitation, the article offers a broad geographical scope, by investigating many port cities on China’s coastline, from north to south (see Figure 1; Table 1).

Figure 1: Existing operating International Seafarers’ Clubs (ISC) in China



⁵² See our pilot research as published as Zhao (n 46).

⁵³ ITF dataset (n 8).

⁵⁴ See Zhao (n 46). Zhang (n 15). Zhang (n 89). Zhao (113).

III. Methods

A mixed-method approach to collecting primary and secondary data was adopted.

- Existing scholarship and other sources of knowledge available in the public domain were examined. Section II outlines the key legal authorities. Other resources are also discussed later.

- Many fieldtrips were undertaken (see Table 1) during 2017-2019: Data were collected in person, in China and some European countries. The authors visited cities along China’s coastline (Figure 1) and Beijing (as China’s capital, it is the home of the central government and the headquarters for major industry players). In Europe, seafarers’ centres were visited in the UK, Germany, Norway, and Romania (see Table 1). A series of interviews and surveys were conducted during these research visits (see the fourth column of Table 1).

- Main survey questionnaire (see Table 4): to examine seafarers’ experience in SBWS in China; 300 seafarers responded.⁵⁷

- Semi-structured interviews: The structured questions and topics were the same as the questionnaire (Table 4); interviewees gave factual answers but elaborated with details and personal views (Sections V-VI).

- During the pandemic, we used manually-collected data on COVID-related restrictions (Sections V.C-D; Tables 3-4), filed by industry stakeholders/networks (including ITF⁵⁸, Wilhelmsen⁵⁹, ICS⁶⁰, Safyty4Sea⁶¹ and GAC⁶²). Moreover, we sent out the questionnaire to 100 seafarers, 48 of whom informed us of their experience in Chinese ports.⁶³

Table 1: List of Sites where current authors conducted fieldtrips during 2017-2019

Fieldtrip	Country	Sites (including each city’s ports, ISC, and city centre)	Details regarding places/institutions/actors that we visited in each city
1	China	Dalian	<ul style="list-style-type: none"> ▪ Dalian International Seafarers’ Club (ISC) Liaoning province ▪ Dalian Maritime University and the law faculty ▪ Shipping companies ▪ Maritime lawyers

⁵⁵ M. Li, et al, Spatiotemporal Characteristics of Urban Sprawl in Chinese Port Cities from 1979 to 2013, (2016) 8 *Sustainability* (11) 1138, <<https://doi.org/10.3390/su8111138>>.

⁵⁶ ITF dataset (n8).

⁵⁷ The questions in detail can be viewed and downloaded from the authors’ online database in “SBWS Questions for Survey and Semi-structured interviews”, Mendeley Data, v1 <<http://dx.doi.org/10.17632/ct84dx5f5v.1#file-a091b6d5-f687-4c4c-bb11-1972d3ac6017>>. All data was first uploaded in 2019 and updated on 01/01/2020, 01/08/2021, 01/01/2022 and 01/01/2023.

⁵⁸ ITF dataset (n8).

⁵⁹ Wilhelmsen (n 43).

⁶⁰ ICS, Caution around revised Chinese port crew change rules, 02/02/2023, <<https://www.ics-shipping.org/news-item/caution-around-revised-chinese-port-crew-change-rules/>>

⁶¹ See detailed lists of the COVID-restriction measures from the datasets (n 8) and (n 43). COVID-19 Crew Change Tracker (country by country), <<https://www.iss-shipping.com/tools/covid-19-crew-change-tracker/>>, updated 30/01/2023.

⁶² GAC, COVID Shipping Updates, <<https://www.gac.com/coronavirus>>.

⁶³ We used online meeting software and transferred our survey from paper to internet-based forms.

			<ul style="list-style-type: none"> ▪ Market-oriented facilities for visiting seafarers (e.g. bars, restaurants)
2	China	Tianjin	<ul style="list-style-type: none"> ▪ Tianjin ISC ▪ Market-oriented facilities for visiting seafarers (e.g. bars and restaurants)
3	China	Qingdao	<ul style="list-style-type: none"> ▪ Qingdao ISC, Shandong province
4	China	Yantai	<ul style="list-style-type: none"> ▪ Yantai ISC, Shandong province
5	China	Qinhuangdao	<ul style="list-style-type: none"> ▪ Qinhuangdao ISC, Hebei province
6	China	Taicang	<ul style="list-style-type: none"> ▪ Taicang ISC, Jiangsu province
7	China	Shanghai	<ul style="list-style-type: none"> ▪ Waigaoqiao port and nearby local bars for visiting seafarers (Chinese, Indians, European, Filipinos, etc.). ▪ Four major shipping companies that have offices in Shanghai, including China Ocean Shipping Group (COSCO) and CMA-CGM SA (they are two leading global shipping companies) ▪ One shipyard (because seafarers stayed longer while ship repairs and are willing to take part in our survey and interviews) ▪ Government officers who work for local governments (including Pudong district, where the port is located) ▪ The Shanghai Marine Shipping Association ▪ China Maritime Safety Administration (MSA), Shanghai
8	China	Ningbo-Zhoushan	<ul style="list-style-type: none"> ▪ The National Ports Museum of China ▪ China MSA, Ningbo ▪ The Maritime Court (Ningbo) ▪ Ningbo ISC, Zhejiang province ▪ Ship agents
9	China	Xiamen	<ul style="list-style-type: none"> ▪ Xiamen ISC, Fujian province ▪ Seafarers Services Centre ▪ Ship agents ▪ Jimei University and the faculty of its Marine College ▪ China MSA, Xiamen
10	China	Shenzhen	<ul style="list-style-type: none"> ▪ Shenzhen ISC ▪ Shipping companies ▪ Government agencies
11	China	Zhanjiang	<ul style="list-style-type: none"> ▪ Zhanjiang ISC, Guangdong province ▪ Shipping companies ▪ Government agencies
12	China	Huangpu	<ul style="list-style-type: none"> ▪ Huangpu ISC, Guangdong province ▪ Shipping companies ▪ Government agencies
13	China	Guangzhou	<ul style="list-style-type: none"> ▪ Guangzhou ISC, Guangdong province ▪ Shipping companies ▪ Local government authority ▪ Guangzhou Maritime University
14	China	Shantou	<ul style="list-style-type: none"> ▪ Shantou ISC, Guangdong province ▪ Shipping companies ▪ Government agencies
15	China	Hong Kong	<ul style="list-style-type: none"> ▪ The Mariners' Club/Mission to Seafarers ▪ ITF Office (HK);
16	China	Beijing	<ul style="list-style-type: none"> ▪ All-China Federation of Trade Unions (ACFTU), the largest trade union in the world. It leads local branches of the maritime workers' union ▪ Officers working at ACFTU in charge of shipping
17	Germany	Hamburg	<ul style="list-style-type: none"> ▪ Altona Seafarers' Mission Hotel (conducted questionnaire surveys and interviews)
18	UK	Southampton	<ul style="list-style-type: none"> ▪ Terminal in Fowley
19	UK	London (Tilbury)	<ul style="list-style-type: none"> ▪ Mission to Seafarers ▪ Seafarers' Centre

20	UK	London (Gateway)	▪ Container Port
21	UK	Shoreham	▪ Commercial Port on the South Coast of England
22	Romania	Constanza	▪ Constanza Seafarers' Centre
23	Norway	Bergen	▪ Bergen Seafarers' Centre
24	UK	London	▪ UN International Maritime Organization (IMO)

Table compiled by the current authors. Details of interviewees/respondents to the interviews and survey conducted by the authors during research visits are listed in the fourth column.

Figure 2: Nationalities of the Survey Respondents (2017-2023)

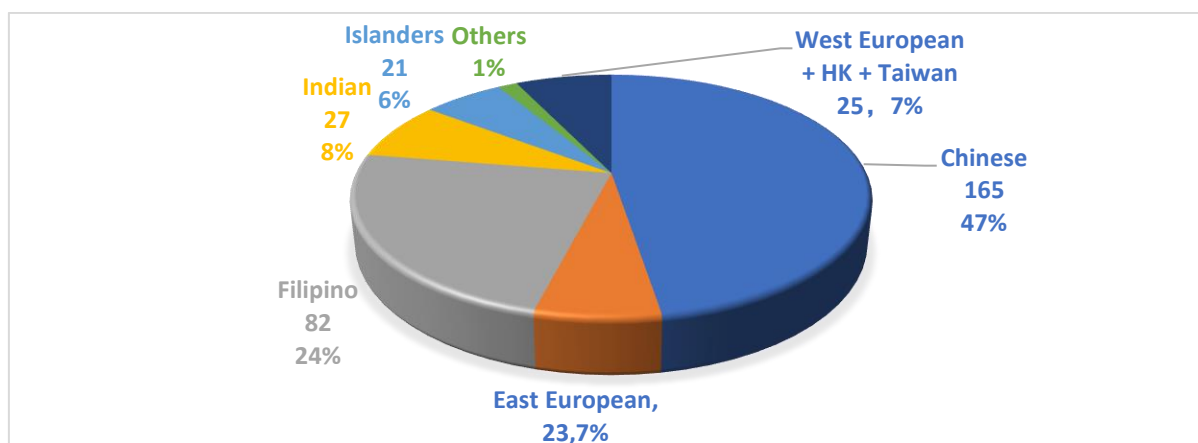


Figure compiled by the current authors. Totally 348 seafarers responded up to 31/01/2023, including 48 who filed their experiences in Chinese ports during the pandemic.

IV. Assessing relevant law in the books: A fragmented regulatory framework governing SBWS for seafarers

Welfare is a part of seafarers' rights. It includes working-and-living conditions, freedom from abuse and financial exploitation, access to medical care, freedom of association, and several other rights.⁶⁴ Several primary international instruments regulate maritime labour internationally, consolidated into MLC. This section summarises the main provisions but also shows that this regulatory framework amounts to a fragmented regime governing SBWS.

A. Earlier international regimes addressing seafarers' welfare

The International Labour Organization (ILO) has been a pioneer in regulating seafarers' welfare. In 1958, the ILO adopted the Seafarers' Identity Documents Convention (ILO C108), which stipulated that each member State should permit seafarers to enter its territory while a ship is in port.⁶⁵ This convention was revised in 2003 to incorporate further specific requirements (ILO C185).⁶⁶ Accordingly, member State should "in the shortest possible time"

⁶⁴ See MLC (n 9). See also Exarchopoulos (n 11); Pauksztat (n 11) 899.

⁶⁵ ILO C108, Seafarers' Identity Documents Convention, 1958, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C108>.

⁶⁶ ILO C185, Seafarers' Identity Documents Convention (Revised), 2003, as amended. <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:93:0::NO::P93_INSTRUMENT_ID:312330>.

“permit the entry into its territory of a seafarer holding a valid seafarer’s identity document”.⁶⁷ These regulations endeavoured to remove obstacles to seafarers’ shore leave so that they could benefit from going ashore during off-work hours.

Subsequently, the ILO took a further step forward by adopting in 1987 – the Seafarers’ Welfare Convention (ILO C163).⁶⁸ This convention required each member State to undertake measures to ensure seafarers have adequate access to welfare facilities onboard ships and while in port.⁶⁹ Unfortunately, it was only ratified by 18 countries, and so has not been influential. Nevertheless, the terms of this convention were incorporated into MLC and so have now become applicable widely.

In practice, many further international conventions, regulations and instruments indirectly govern standards on seafarers’ access to SBWS. Firstly, Article 94 of the UN Convention on the Law of the Sea (UNCLOS 1982) stipulates that every member State shall be responsible for the ‘labour conditions’ and ‘social matters’ onboard ships flying its flag.⁷⁰ This obligation extends to labour conditions and social matters when a vessel is in port. Secondly, the International Convention for the Safety of Life at Sea (SOLAS 1974),⁷¹ adopted by the UN International Maritime Organization (IMO), states that one of its primary aims is to establish minimum standards for the construction, equipment, and operation of ships, and includes many measures to improve seafarers’ safety, health and well-being. Finally, some other legal instruments are also relevant, albeit less directly. These include the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW 78/95),⁷² the International Management Code for the Safe Operation of Ships and Pollution Prevention (ISM Code 1994)⁷³ in which a significant text concerning the human element has been incorporated into Chapter IX of SOLAS 1974,⁷⁴ and the International Ship and Port Facility Security Code (ISPS Code 2002⁷⁵).

In the above international frameworks, the concept of ‘seafarers’ welfare’ is used in two domains: onboard and shore-based. What is nevertheless striking is that, compared with onboard welfare (where international regulations are better implemented), the protection of shore-based welfare seems to lag far behind.⁷⁶

⁶⁷ Ibid.

⁶⁸ ILO C163, Seafarers’ Welfare Convention, 1987. <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312308>.

⁶⁹ Ibid.

⁷⁰ United Nations Convention on the Law of the Sea (UNCLOS 1982), Article 94.3.

⁷¹ IMO, International Convention for the Safety of Life at Sea (SOLAS) Adoption: 1974; Entry into force: 25 May 1980 <[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)>.

⁷² IMO, International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), Adoption: 1978; Entry into force: 1984; Major revisions in 1995 and 2010. <<https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-Conv-LINK.aspx>>.

⁷³ IMO, International Safety Management (ISM) Code (1994). <<https://www.imo.org/en/OurWork/HumanElement/Pages/ISMCode.aspx>>.

⁷⁴ I. Christodoulou-Varotsi, Critical Review of the Consolidated Maritime Labour Convention (2006) of the International Labour Organization: Limitations and Perspectives (2012)43 *J. of Maritime Law and Commerce* (4), 467.

⁷⁵ IMO, International Ship and Port Facility Security (ISPS) Code (2002). Entry into force: 2004. <<https://www.imo.org/en/OurWork/Security/Pages/SOLAS-XI-2%20ISPS%20Code.aspx>> .

⁷⁶ E.g. P. Zhang, *Seafarers’ Rights in China: Restructuring in Legislation and Practice Under the Maritime Labour Convention 2006* (Springer 2016). P. Zhang and L. Zhao, Restructuring seafarers’ welfare under the Maritime Labour Convention: an empirical case study of Greece, *Maritime Business Review* (2020)5(4), 373-

B. ILO Maritime Labour Convention and seafarers' access to SBWS

1. Differences between articles, standards and guidelines under MLC

Apart from the international regimes described above, the most important convention for the current topic is the Maritime Labour Convention (2006) as amended.⁷⁷ Since its adoption by ILO in 2013, MLC has been ratified by 97 countries worldwide.⁷⁸ As such, it is legally binding on a wide range of member States/parties, including the UK, Germany, Singapore, mainland China and Hong Kong (China), as discussed below.⁷⁹

MLC is now one of four pillars regulating modern international maritime law. Sitting alongside three other important international conventions (SOLAS, STCW and MARPOL, which are the IMO standards on ship safety, security, and quality ship management),⁸⁰ MLC is known as the seafarers' Bill of Rights. While the other three pillars deal more with ships and their operations, MLC deals directly with seafarers' rights. It consolidates and brings jointly into effect "all up-to-date standards of existing international maritime labour conventions and recommendations, and the fundamental principles of other international labour conventions"⁸¹ to ensure decent working-and-living conditions for all seafarers.⁸² MLC also sets its own *minimum* standards for maritime labour. States (port States, flag States of ships, and seafarer-supplying States) may adopt *higher* standards, but they cannot derogate from the MLC minimum standards on seafarers' working-and-living conditions.

In structure, MLC begins with a Preamble. Then comes a series of main 'Articles'. Following these come 'Regulations' and 'the Code'; this part of the convention is divided into five Titles (see Table 2). Each Title contains three types of provisions: Regulations, Standards, and Guidelines. Readers should remember that the distinctions among these three types of provisions are crucial since they have different kinds and degrees of legal effect (or lack of it); the differences are explained below.

Table 2: Structure and Table of Contents of the Maritime Labour Convention (MLC)

Preamble
16 Articles (Articles I-XVI)
'Explanatory Note to the Regulations and Code of the Maritime Labour Convention'
The Regulations and the Code:
Title 1. Minimum requirements for seafarers to work on a ship
Title 2. Conditions of employment
Title 3. Accommodation, recreational facilities, food and catering
Title 4. Health protection, medical care, welfare and social security protection
Title 5. Compliance and Enforcement
Appendices

Table compiled by the current authors. MLC 2006, entry into force: 20/08/2013, with the latest amendments [entry into force: 26/12/2020]

⁸⁹, doi: 10.1108/mabr-02-2020-0009.

⁷⁷ MLC (n 9).

⁷⁸ ILO (n 19).

⁷⁹ Ibid.

⁸⁰ See more regarding the four pillars on <https://mismarine.com/the-four-pillars-of-international-maritime-law/>. IMO, the International Convention for the Prevention of Pollution from Ships (MARPOL), adopted in 1973, [https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-\(MARPOL\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-(MARPOL).aspx)

⁸¹ MLC (n 9).

⁸² ISWAN, Port Welfare Partnership Programme, <<https://www.portwelfare.org/ilo-mlc--2006-4.4-regulations--standards.html>>. MLC consolidated 68 conventions and recommendations, but some important conventions not included are those relating to seafarers' identity documents (ILO 108 & 105) and pensions (ILO 71.)

Within each Title of MLC, then, there are different types of provision. There are general Regulations (*legally binding*) which are then elaborated further by Standards and Guidelines. The Regulations are general, non-negotiable points of principle. All the Standards are referred to as ‘Part A’, all the Guidelines as ‘Part B’; Part A (the Standards – *mandatory*) and Part B (the Guidelines – *recommendations/non-mandatory*) are collectively called ‘The Code’.

It is worth noting that, according to MLC Article VI, the provisions of Part A are mandatory, whereas the provisions of Part B are not. Part B contains ‘recommendations’ which set out in greater detail how Part A can be put into practice. Such recommendations are to be given due consideration but are not obligatory. Readers should, therefore, remember that member States are *legally bound* by the minimum Standards provided in Part A; in contrast, Part B provisions are *recommended* thus optional.

2. MLC provisions directly linked with seafarers’ shore-based welfare

For this research, the governing law at the international level has been consolidated in MLC. Besides inheriting the legacy of ILO C163, MLC has taken a step forward. MLC not only sets out the general “effort should be made” requirement on member States under its Article IV (Seafarers’ employment and social rights),⁸³ but also details how member States (e.g. port States) should ensure visiting seafarers have access to SBWS under MLC Regulation 4.4 (Access to shore-based welfare facilities)⁸⁴ and associated Standard and Guideline (i.e. Standard A4.4⁸⁵ and Guideline B4.4⁸⁶).

Among these provisions, MLC Guideline B4.4 is the *most relevant* and detailed, enumerating a list of essential SBWS. This provision consists of six guidelines, namely Guidelines B4.4.1--4.4.6. Of these, the *most specific* provision is MLC Guideline B4.4.2 Paragraph 3, stating:

“3. Necessary welfare and recreational facilities should be established or developed in ports. These should include:

- (a) Meeting and recreation rooms as required;*
- (b) Facilities for sports and outdoor facilities, including competitions;*
- (c) Educational facilities; and*
- (d) Where appropriate, facilities for religious observances and for personal counselling.”*

Nevertheless, these aforementioned MLC provisions contain serious flaws. Firstly, although MLC regulates SBWS under Article IV, Regulation 4.4, Standard A4.4 and Guideline B4.4 as described above, many of the specific requirements are prescribed in Guideline B4.4.2, which belongs to Part B of the Code. As explained above, Part B of the Code is non-compulsory. Hence, all six Guidelines under MLC Guideline B4.4 are only recommendations to States.⁸⁷ Secondly, MLC, particularly under Guideline B4.4, only provides a non-exhaustive list of SBWS. To make matters worse, MLC does not impose any compulsory requirements on what *kind(s)* of SBWS member States should provide. While the Guidelines enumerate a list of specific SBWS, none of them is made compulsory by MLC. Accordingly, these MLC provisions allow member States to decide entirely on what, indeed any kinds of, SBWS to offer within its territory to visiting seafarers.⁸⁸

⁸³ MLC (n 20).

⁸⁴ MLC (n 21).

⁸⁵ MLC Standard A4.4 (Access to shore-based welfare facilities).

⁸⁶ MLC Guideline B4.4 (Access to shore-based welfare facilities).

⁸⁷ MLC, Part A of the Code.

⁸⁸ See details in our other research, e.g. G Exarchopoulos, et al, Seafarers’ welfare: A critical review of the

In reality, the aforementioned provisions of MLC have created inconsistencies between the law in books and in action, limiting the effectiveness of MLC. Because a State may have good law (in the books) but have serious problems with enforcement. Arguably, such States have complied with MLC, especially when none of SBWS are MLC-mandated. We observed in reality that such a State, which has passed many national laws/regulations concerning seafarers' rights and welfare still does have insufficient (or lack) of essential SBWS for visiting seafarers.

For the rest of this article, let us illustrate the aforementioned flaws in MLC, using China as an example (for the reasons outlined in Section II). Readers should note that China is not the only example.

China has passed a series of statutes/regulations in line with MLC.⁸⁹ In our other articles, we explained that China has incorporated MLC into its national legal framework⁹⁰ and offered SBWS according to its national laws to seafarers.⁹¹ However, the reality of visiting seafarers is that the essential SBWS is insufficient (or lacking). Thus, this article argues that the aforementioned flawed provisions within MLC significantly weaken the effectiveness of the MLC global regulatory framework, particularly concerning the SBWS, as will be detailed in following sections.

V. Assessing law in action: Two different models for States to ensure shore-based welfare of seafarers

Working outwards from the language and combination of legally-binding and discretionary measures under the MLC Regulation 4.4 and associated Standards and Guidelines, the remainder of this article presents some (qualitative and quantitative) empirical evidence/results (and then discusses findings) from a law-in-action perspective. As described above, the authors undertook fieldtrips/interviews/surveys and used industry-filed data (see Section III; Table 3-4; Figures 1-2), which together explore all relevant MLC provisions, particularly Guideline B4.4.2 Paragraph 3 (which enumerates specific categories of SBWS). The questions used in these research instruments are archived in the authors' online dataset, as shown in Table 4, together with further discussion of results.⁹²

Linking our research on China⁹³ with the existing literature on the West (see Section II)⁹⁴ shows that, unlike the model adopted in Western countries, China employs its own model for implementing MLC in providing SBWS. Thus, when it comes to MLC in reality, the implementation of SBWS appears to fall into two types. Of these, the approach adopted in China has yet to be well documented; so the rest of this article outlined that distinctive model. Readers should note that the difference between the two models stems from different traditions, cultures and social-economic 'landscapes' of professional activity (including for seafarers), as explained below.

Additionally, all countries with either model have implemented COVID-related

related legal issues under the Maritime Labour Convention 2006 (2019)*Marine Policy* 93, 62-70.

⁸⁹ See details from our another research on the Development of Maritime Legislation in China Under the Impact of MLC 2006 in Zhang (n76), pp1-18, 19-68. P. Zhang, et al, Maritime Labour policy in China: Restructuring under the ILO' s Maritime Labour Convention 2006, (2014) *Marine Policy* 50, 111-116

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² See authors' datasets and hand-collected data from other empirical datasets outlined in Section II Methods.

⁹³ E.g. this article, and our pre-pandemic empirical research (Zhao, et al (n.52)) which pinpoints shore-based transportation services.

⁹⁴ Ibid.

restrictions (Table 3), harming visiting seafarers and their access to SBWS worldwide. Key findings regarding relevant COVID restrictions are summarised below (Sections V.C-D).

A. A 'Faith-based' model for SBWS: Western International Seafarer Centres with origins in Christian welfare

One of the models for implementing MLC and providing SBWS has been to offer these services/facilities through Christianity-based faith organisations known as 'International Seafarers Centres'. After researching the relevant literature on this model (Section II), the authors conducted fieldtrips and collected data in some European countries (Table 1).

This model is referred to as 'the Western model' because the Christianity-based Seafarers Centre model originated in the Western world, primarily in Germany, the UK and Scandinavian countries (see Table 1: Fieldtrips 17-24), then spread beyond Europe to overseas ex-colonial regions such as Hong Kong (see Table 1: Fieldtrip 15).⁹⁵ Yet, this classification does not reflect current geographical location but signals a dichotomy related to origins and a distinction from the other model that originated in the East, roughly in Russia and China. The dichotomy is simultaneously one of historical origin, geographical place, religion and political system.

Figure 3: The Seafarers Centre within the Port of Tilbury (London) (Interior Scene)



Source: Filed by the Tilbury Seafarers Centre to the authors' Photo Bank (Table 1, Fieldtrip 17). This centre runs a lounge (previously 24-hour; now 13:30-21:20) with a bar, offering low-priced drinks and free tea/coffee/biscuits. The centre works efficiently in a cost-saving manner: staffing: three full-time staff members and some volunteers who worked part-time (Fieldtrip 19: 2019). Some staff and all volunteers are religious.

In Tilbury (London, UK) and Hamburg (Germany), the authors witnessed high-quality SBWS and good facilities available within the seafarers' centres (see Figures 3-4).⁹⁶ The two centres received highly positive feedback in the interviews conducted with global seafarers and with other seafarers' centres (Table 1).

A vital feature of this model is that the seafarers' centres are run primarily by faith organisations. Such western-style seafarers' centres form part of Christian seafarer missions. For instance, both the Hamburg and Tilbury Seafarers Centres are run by 'the Mission to Seafarer', associated broadly with Christianity while potentially varying as regards particular branches of the Christian church (Table 1: Fieldtrip 17-19). This model for SBWS exists mainly in Western countries. Today, a large number of Seafarers' Centres based on the model have

⁹⁵ Through fieldtrips and interviews in 2018, we have found that the Hamburg Seafarers' Centre was established earlier and influenced the Tilbury (London) Seafarers' Centre.

⁹⁶ See details in Table 3 and datasets filed in accompanying footnotes.

been key SBWS providers located in port areas for visiting seafarers. Approximately 430 Western-style seafarers' centres operational worldwide offer SBWS for visiting seafarers.⁹⁷

In our interviews/survey instruments, many factors affecting the operation of such centres emerged which have not been covered in the available literature:

Firstly, the Hamburg Seafarer Centre (*'German Seemannsmission Hamburg'* in German) adopts notably high-quality standards and complies fully with international regimes, particularly MLC. The authors interviewed staff and visiting seafarers during the fieldtrip to Hamburg city and port areas (Table 1: Fieldtrip 17); as Figure 4 shows, all relevant MLC requirements are fully met. Seafarers visiting the centre were interviewed in 2018 and gave highly positive feedback. Among the respondents to our survey (roughly 2/3 respondents were (ex)seafarers), 59 respondents had been to Hamburg and ranked the centre as one of the top SWBS providers.

Figure 4: German Seafarer Centre, Hamburg (*'German Seemannsmission Hamburg'*) (Interior Scene)



Source: The authors' photobank (Table 1: Fieldtrip 15). It offers SBWS within the port area with a staff team. Facilities include: Food and drinks served at the bar (with free coffee and tea), free books, internet, Ping-pong and pool tables.

Secondly, many Western-style seafarers' centres are part of a network, especially the most successful ones. For example, the Tilbury and Hamburg Seafarers' Centres originate from related Christian missions. Such interconnection has allowed the Hamburg Seafarers Centre to support many Scandinavian seafarers' centres.

Thirdly, though Hong Kong (China) is geographically located in the East, it adopted a Western-style seafarers' centre approach for historical reasons. There are two Mariners' Centres in Hong Kong, both run by Christian missions: a smaller one located within the Kwai Chung container port, the other in Tsim Sha Tsui (Table 1: Fieldtrip 15; Table 3).⁹⁸

Similarly, although Eastern in location, Singapore has adopted a mixture of the models described here as Western and Eastern. Singapore provides SBWS in its Mariners' Clubs and drop-in Centres.⁹⁹ Remarkably, and in contrast with Hong Kong, the Singaporean clubs/centres are operated jointly by local seafarers' missions, local seafarers' unions, and the Singapore Maritime and Port Authority (MPA, a Singaporean governmental agency).¹⁰⁰

⁹⁷ ISWAN, Is there a Future for Seafarer Centres?, 16 December 2015. <<https://www.seafarerswelfare.org/news/2015/is-there-a-future-for-seafarer-centres>>.

⁹⁸ The Mariners HK, Corona Virus Info, <https://www.themarinersclubhk.org/a49.htm>

⁹⁹ Singapore MPA, Information for seafarers visiting Singapore, <<https://www.mpa.gov.sg/web/portal/home/singapore-registry-of-ships/crewing/information-for-seafarers-visiting-singapore>>.

¹⁰⁰ Ibid.

B. The Chinese model for SBWS: International Seafarers’ Clubs (ISC) with origins in the east and associated with a Marxism-Maoist philosophy

Unlike the Western model, the current authors found another model of supplying SBWS in China. In Chinese ports, SBWS for visiting seafarers is offered by Marx-Maoist institutions called ‘International Seafarers’ Club’ (ISC or ‘clubs’ hereinafter). These Chinese ISCs can be traced to similar practices in the Soviet Union. This article discusses China rather than Russia, because of the role of China as explained previously.

In the 1950s, the Chinese government established a large number of ISCs, shortly after the Marxist-Maoist Communists came to power. Most ISCs were located near the waterfront, around major Chinese ports. The ISCs were operated by local seafarers’ trade unions, usually affiliated with the All-China Federation of Trade Unions (ACFTU, a national quasi-governmental body). Apart from providing services to visiting seafarers, the ISCs also aimed to demonstrate China’s hospitality and friendship to ‘foreign seafarers’. Hosting these foreigners in an isolated place would simultaneously reduce their interaction with the local population and potentially spread anti-communism (Table 1: Fieldtrip 16; interview of an ACFTU officer).

In this way, and for ideological reasons distinct from the faith-based model, China offered outstanding SBWS half a century before the emergence of MLC 2006. Moreover, the Marxist-Maoist ISCs significantly contributed to SBWS for seafarers and globalised maritime trade.

The remainder of this article examines how the MLC provisions (as discussed above in Section IV) on SBWS are implemented in China. It provides some empirical evidence regarding the provision of SBWS for visiting seafarers, with a particular focus on China’s changing position from Marx to Market and the related implications for SBWS. We find that while China offered outstanding SBWS for decades before the passage of MLC, it faces new challenges and is responding with new initiatives, as discussed below.

C. Impact of COVID-related restrictions on visiting seafarers and their access to SBWS

During the pandemic, countries have locked down and/or imposed emergency measures.¹⁰¹ According to hand-collected empirical data, visiting seafarers to countries of both aforementioned models were adversely affected.¹⁰² Many States suspended crew changes and repatriation, let alone shore leave.¹⁰³ These have a detrimental impact on visiting seafarers, especially foreign seafarers, and their access to SBWS in the port State (see Table 3 below).

Table 3: COVID-related restrictive measures affecting global visiting seafarers (01/2020-01/2023)

Countries	European countries	China	
Ports in		Mainland China (all ports)	Hong Kong, China
General Information	Most EU countries and the UK reopened seaports and airports in 2021, with varying entry requirements	Implement travel restrictions to limit the spread of the virus; Adopted Zero-COVID policy nationwide (applicable to all ports) until 01/2023	Shadowing the Zero-COVID policy in 2020 and 2021;

¹⁰¹ See eg. ILO (n 3); Sun (n116).

¹⁰² See Table 3 and accompanying footnotes.

¹⁰³ UNCTAD, (n.6).

	(e.g. quarantine, vaccination, testing, etc.)		HK reopened its seaports and airports around mid-2022, earlier than mainland China 2020 to 01/2023
Duration of restrictions	2020 to mid-2021	2020 to 01/2023	
Crew change (Yes/No)	Y, with some restrictions (e.g. testing, visa)	N, except for local seafarers	Y, for both local and foreign seafarers, with some conditions (e.g. quarantine, vaccination, testing, advance flight/hotel bookings)
Shore Leave Permitted (Yes/No)	Y, with some restrictions, depending on local regulations	N, so SBWS were provided on board, e.g. Internet; Medical services via online consultations with doctors	N, but the local Mariners' Centre restarted to offer ship visits and bring groceries/medicines/gifts/resources to seafarers on board from mid-2022.
Seafarers' centres/clubs	Some closed and then reopened, e.g. Liverpool, the Mission to Seafarers clubs in South Wales, and some in France	Most open, but local officials rather than clubs conducted ship visits; The clubs (e.g. Shanghai, Guangzhou, Shantou) or ship agents prepared the resources ready for the officials in advance; The officials brought resources (e.g. groceries/medicine/gifts) to docked ships for visiting seafarers on board.	Open. Ship visits were NOT allowed until mid-2022, then the Centre's restarted to provide SBWS through ship visits and bringing the resources to onboard seafarers
Remarks	Seafarers' visits regarding shore-based medical care are allowed in Germany and UK.	In all ports in Asia Pacific (including China, Singapore, Korea, Japan, etc.), all visiting seafarers must stay on board the ship that is in port; SBWS (e.g. internet, online consultations with doctors) were provided onboard of visiting ships rather than at premises of the Seafarers' centres/clubs. The staff undertook ship visits and sometimes brought groceries/medicines/gifts to ship-bound crews or designated sites within port areas, such as Hong Kong, Shanghai and Guangzhou.	

Table filed by current authors. Source: Hand-collected empirical data from industry stakeholders/networks (including ITF¹⁰⁴, ICS¹⁰⁵, Wilhenlmsen¹⁰⁶, Safety4sea¹⁰⁷, ISS¹⁰⁸ and GAC¹⁰⁹).

During the pandemic, alternatives to traditional SBWS have emerged (mainly through sending groceries/resources during ship visits and remotely offering shore-based resources via internet to ship-bound crews while the ship is in ports). Further questions arise: Is seafarers' visit to SBWS is dispensable? Some SBWS providers increased ship visits to COVID-19 ship-bound crews.¹¹⁰ Indeed, taking some alternative measures is better than doing nothing. However, it is worth noting that globally, a higher number of person-overboard incidents and suicides were reported than that before the pandemic.¹¹¹ Why? The answer lies in physiological research that reveals all human beings, including seafarers, have the need for belonging, affection, and social needs.¹¹² Thus, ensuring direct (not just remote) access to SBWS is essential for seafarers' health (physically and especially mentally) but also for the overall smoothness of global trade.

¹⁰⁴ ITF dataset (n 8).

¹⁰⁵ ICS dataset (n 60).

¹⁰⁶ Wilhenlmsen dataset (n 43).

¹⁰⁷ Safety4sea dataset, e.g. Hong Kong: Updated exemption conditions and quarantine arrangement for visiting vessels, 16/08/2021, <<https://safety4sea.com/hong-kong-updated-exemption-conditions-and-quarantine-arrangement-for-visiting-vessels/>>

¹⁰⁸ ISS dataset (n 61).

¹⁰⁹ GAC dataset (n 62).

¹¹⁰ E.g. Liverpool, Shanghai, Guangzhou, Shantou and Kong Kong seafarers' centres/clubs. E.g. Nautilus International, 'Welfare: Liverpool seafarer centre increases ship visits to Covid-19 vessel-bound crews', 23/03/2020, <<https://www.nautilusint.org/en/news-insight/news/liverpool-seafarer-centre-increases-ship-visits-to-covid-19-vessel-bound-crew/>>.

¹¹¹ Lloyd's List, Shedding light on suicides at sea, 20/03/2022.

¹¹² Maslow (n 4). Haidt (n 4).

D. Key findings of our survey

The survey questions and key findings are summarised below:

Table 4: Survey of seafarers' experience in their access to shore-based welfare services/facilities and the (un)importance of a service/facility in their eyes

1. Transportation Services (5 items)	Number	Range	Mean
Transportation to a place of worship	260	1	0.37
Transportation to shopping mall	319	1	0.77
Transportation to city centre	283	1	0.65
Transportation to seafarer's centre/club	291	1	0.66
Transportation to bus/subway hub	264	1	0.48
2. Shopping Services (5 items)	Number	Range	Mean
Shopping for chocolate	263	1	0.37
Shopping for beers	249	1	0.25
Shopping for clothes	298	1	0.47
Shopping for souvenir	319	1	0.55
Shopping for electronic appliances	307	1	0.46
3. Spiritual and Social Services (5 items)	Number	Range	Mean
Religious service	267	1	0.32
A place to meet others	303	1	0.54
A place to read	271	1	0.38
On shore accommodations	269	1	0.41
Non-profit driven seafarer centre/club	294	1	0.66
4. Communication Services (3 items)	Number	Range	Mean
Internet access/Wi-Fi	334	1	0.94
International phone calls	311	1	0.73
Sim cards/top ups	317	1	0.85
5. Monetary Services (2 items)	Number	Range	Mean
Money change	284	1	0.80
Money sending	306	1	0.58
6. Health and Leisure Services (4 items)	Number	Range	Mean
Medical clinics ashore	310	1	0.74
Sport facilities	281	1	0.61
Organized sightseeing	284	1	0.66
Book/film exchanges	282	1	0.56

(Not important/indifference=0, Important=1)

Table compiled by current authors. Source: hand-collected data from 348 seafarers, 48 of whom informed the authors of their experience in Chinese ports during the pandemic.

A key finding from our survey is that the (un)importance of *various kinds* of SBWS, and the *order of priority* among them, are perceived very differently by individual seafarers (see Table 4: column 'Mean'). Clearly, there are no one-size-fits-all means of providing SBWS. Yet some trends in the data are evident:

Firstly, unsurprisingly, Internet access is widely considered *extremely important* among seafarers far from home (Table 4: Mean: 0.94/1). Many SBWS (e.g. communication with families/friends, medical appointments, etc.) were offered via the internet. Thus, internet access has become even more important nowadays, particularly for ship-bound crews during the pandemic. Access to Internet is affordable when the ship is in port docked in port,¹¹³ but some

¹¹³ Some ship agents filed us the cost is around \$1000 per month for its whole company; accordingly, the monthly cost of internet for individual seafarers is roughly \$10 per person per month.

respondents felt it is expensive (especially for low-ranking seafarers) when ships were at sea.¹¹⁴

Secondly, the need for medical clinics ashore (Mean: 0.74/1) appears less important than the need for the Internet for seafarers; however, this need increased dramatically after the COVID-19 outbreak.¹¹⁵ Many shipping companies already provided onboard/online/satellite-based medical services before the pandemic. But, due to port restrictions (Table 3), visiting seafarers are usually ship-bound on board even when the ship is in port. It is worth mentioning the cabin facilities on ships are usually not spacious to meet WHO social distancing and self-isolation standards.¹¹⁶ Additionally, the ship's ventilation systems have caused many clusters of COVID-19 infections on board.¹¹⁷ Even so, medical services were provided mainly through online meetings with doctors; but we noted some seafarers (respondents) were sceptical about the usefulness of such online consultations. Occasionally, ship-bound crews could (physically) get medicines from shore-based people to deliver to the visiting ships.

During the pandemic, sick seafarers onboard can disembark from ships in Chinese ports, subject to prior approval by calling the Chinese Ministry of Transport's helpline, depending on discretion of local authorities. The ports of Shanghai and Guangzhou received positive feedback in our interview/survey instruments, because the local authorities (sometimes assisted by seafarers' clubs) usually granted such leave; they then would arrange for an ambulance to take the patient from the port areas to (city-based) hospital.

Additionally, the local authorities coordinated COVID-19 tests and vaccinations and provided groceries/medicine/gifts to visiting seafarers who are served on board ships or at designated spaces within the port facility (inside/beyond the club premises).¹¹⁸

A third consideration is that visiting seafarers usually rely on the centre/clubs' port-based transportation services.¹¹⁹ This is because of the structural changes in the shipping industry (explained in Section II)¹²⁰ and international security regulations restricting public and unauthorised-private taxis from accessing port areas.¹²¹

Fourthly, while most visiting seafarers hope to go shopping, many of them were indifferent to the location of shops (see Table 4: Shopping Services); hence, SBWS providers could probably meet seafarers' needs by providing shopping facilities within/near the port or providing transportation services to/from other shopping premises (e.g. in the city centre).

Finally, transportation and shopping needs are usually related for many visiting seafarers, who often have dual purposes of going downtown for shopping and sightseeing.

VI. From Marx to Market: The *status quo* and challenges over the provision of SBWS in China

A. Privatisation of International Seafarers' Clubs: a case study of Shanghai

¹¹⁴ This is likely because the internet is satellite-based when the ship is on high seas.

¹¹⁵ UNCTAD, ILO and IMO, Joint statement urging continued collaboration to address the crew change crisis, safeguard seafarer health and safety, and avoid supply chain disruptions during the ongoing COVID-19 pandemic, 28/02/2022. See more on empirical datasets in Table 3 accompanying footnotes.

¹¹⁶ S. Sun and L. Zhao, Legal Issues and Challenges in Addressing the Coronavirus Outbreak on Large Cruise Ships – A Critical Examination of Port States Measures, 217(2022) *Ocean and Coastal Management*, 105995, doi: 10.1016/j.ocecoaman.2021.105995, 1-6.

¹¹⁷ Ibid.

¹¹⁸ See similar practice in Canada from Zuidema (n 39).

¹¹⁹ See details in our another article, Zhao et al (n 52).

¹²⁰ e.g. Bernamara (n 30).

¹²¹ ISM Code (n 73). ISPS Code (n 75).

Many International Seafarers' Clubs which offer SBWS in China have gradually been privatised since the 1980s, as a result of the paradigm shift 'from Marx to Market' that has taken place in China.¹²² Further, through many fieldtrips (Table 1), the authors have found that the SBWS in China are shrinking, for reasons explained below, and illustrated here by the instance of the port of Shanghai:

Shanghai is one of the busiest ports globally, so it has been chosen here to illustrate the impact of the privatisation of ICSs on the provision of SBWS in China. It is nevertheless important to note that, besides Shanghai, the authors also visited other major ports in China and documented similar situations – i.e. the privatisation of ICSs – in Dalian, Qinhuangdao, and Shenzhen (Table 1: Fieldtrips 1, 5 and 10). Due to their similarities, the details related to other cities are not given here to avoid repetitions. Together, however, the selected cities are home to the major ports in China, and thus reflect the overall *status quo* of implementing the MLC provisions on SBWS in China.

Apart from fieldtrips, the authors conducted 70 interviews at sites related to Shanghai port. Interviewees included shipping company representatives, seafarers, and government officers (Table 1: Fieldtrip 7, face-to-face interviews in 2018; online interviews in 2022).

The key findings can be summarised as follows. Before the early 1980s, there was an 'International Seafarers' Club' (ISC) in Shanghai, located in the Bund – a waterfront area in the city centre. This club was housed in the former premises of 'The Shanghai Club', formerly one of the most prominent buildings in Shanghai.¹²³ Founded by the British in 1861, the Shanghai Club had been famous for housing the longest bar in the world in the early twentieth century, and was for this reason, a favourite gathering place for foreign business people.¹²⁴ In 1951, two years after the founding of PR China, the Shanghai Club was turned into the International Seafarers' Club to host visiting (foreign) seafarers who respected China's sovereignty.¹²⁵

The Shanghai ISC provided various outstanding facilities in that period and offered foreign seafarers a warm reception and various services. Its SBWS comprised: accommodation, a restaurant, bar, dancing hall, library, barbershop, shopping mall, and taxi services.¹²⁶ In addition, it offered translators for more than 15 foreign languages.¹²⁷ During the period 1950-1980, the Shanghai ISC had provided these SBWS for a large number of foreign seafarers. In the official records of the Shanghai local government, before the 1980s people representing the club visited foreign ships more than 1000 times *per annum*. The club received seafarers' visits more than 80,000 person-times *per annum*.¹²⁸

However, since the 1980s, the Shanghai ISC has almost vanished due to China's introduction of a free market economy (Fieldtrip 7: interviews with COSCO Shanghai and the Shanghai Pudong local government, 2018). According to these two sources, the Shanghai ISC was reported to be closed for several years during the 1980s, and gradually the rights to use different parts of the building (of the former 'Shanghai Club') were sold to various businesses,

¹²² See Shanghai Chronicles and ACG, *Survey of China Mainland Press*, Issues 5864-5883 (1975), 208.

¹²³ Shanghai Chronicles Office, 'Previously Shanghai Club, now Dongfeng Hotel', (2009) <http://www.shtong.gov.cn/dfz_web/DFZ/Info?idnode=81784&tableName=userobject1a&id=108914>.

¹²⁴ Ibid. E. Honig, *Sisters and Strangers: Women in the Shanghai Cotton Mills, 1919-1949* (Stanford University 1986).

¹²⁵ ACG, *Survey of China Mainland Press*, Issues 5864-5883 (1975), 208.

¹²⁶ Shanghai Chronicles Office, 'The Introduction of Shanghai International Seafarers Club' (2003), <http://www.shtong.gov.cn/dfz_web/DFZ/Info?idnode=56350&tableName=userobject1a&id=42940>.

¹²⁷ Ibid.

¹²⁸ Shanghai Chronicles Office (n 123).

including the first KFC in mainland China and a four-star hotel.

It is worth noting that similar changes occurred in many other Chinese port cities and their equivalent ISCs. These clubs have now been converted into commercial sites, such as luxurious hotels and restaurants open to the public. In addition, the ‘traditional’ function of the clubs, in serving visiting seafarers, has been reduced, if not entirely lost. These adverse changes have inevitably reduced seafarers’ access to essential, affordable SBWS.

One key reason for the change was a dramatic change in the environment where the ISCs were initially located. The Shanghai ISC, for example, was located in The Bund, which became one of the most popular, expensive commercial districts in Shanghai, even in the whole of China.

Hence, as the paradigm shift progressed, the not-for-profit SBWS for visiting seafarers were forced to give way to more profitable, even lucrative, business activities. In 1971, the upper part of the Shanghai Club building was converted into the ‘Dongfeng Hotel’. In 1984, the premises of then Shanghai ISC were privatised and became a four-star foreign-related hotel called ‘The Seagull on the Bund’, a name still in use (Fieldtrip 7: 2018). In 2009, the Hilton group acquired a lease on the Shanghai Club building, and in 2011 it was reopened as the ‘Waldorf Astoria Shanghai on the Bund’, which is still operational (Fieldtrip 7, 2018).

What is important in this summarised history is that, since the privatisation of Shanghai ISC, there have been no functioning seafarers’ clubs in Shanghai (Fieldtrip 7 and interviews with visiting seafarers in local bars near the port and shipping companies, 2018).¹²⁹ Although some shipping companies (e.g. COSCO) reserve part of their premises for visiting seafarers, such venues are only open to the particular company’s crew members (Fieldtrip 7: 2018).

Overall, the authors visited 14 Chinese ports to interview staff and frequent users of the ISCs (Table 1). Roughly 50 interviewees mentioned the shrinking of SBWS in the Chinese ports. A typical interview response is that of (ex)Captain Chen:

Before the 1980s, visiting seafarers, regardless of nationality, were well treated in Shanghai ISC. Seafarers were picked up by taxi immediately after ships arrived, and then they would be brought directly to the Seafarers’ club, which offered warm reception, free drinks, and meals. They could either stay in the club (often play Ping-pong, read books, or watch movies) or go sightseeing (led by the club’s tour conductor for free). However, since the 1980s, all SBWS have disappeared slowly. Now many so-called ‘Seafarers’ Clubs’ are actually private bars/restaurants that usually charge expensive bills. Such names are so misleading that many visiting seafarers were overcharged and extorted.

The above statement was echoed by other interviewees and is consistent with ‘*the Shanghai Chronicles*’ – i.e. the official records archived by the Shanghai local governments.

Without a functioning seafarers’ club/centre, visiting seafarers are vulnerable, not only uncomfortable. The authors identified worse, alternative facilities when ‘businessmen’ conspire with port-based transportation service providers (e.g. taxi drivers, ship chandlers, or ship agents). For example, one senior crewing manager, then a Captain, stated:

In 2014, five crew members (Filipinos and Indians) visited a local bar [near Qinhuangdao port, China]. It was so-called ‘Seafarers’ club’, recommended by a ship chandler. Several bottles of beer cost USD 2000, dramatically different from the menu. The bar detained the crew by force until I went there and paid the price.

Such episodes make clear that it is essential to (re)launch International Seafarers’ Clubs or their equivalent in China to ensure that visiting seafarers have access to essential SBWS. New initiatives seeking to resolve the problems noted here will be discussed in Section VII.

¹²⁹ The current research engaged industry and governments, and they have accepted our advice and relaunch a new Shanghai ‘International Seafarers’ Club’ in 2019 in Shanghai (Yangshan, one of the top container port terminal in the world).

B. Present implementation of MLC provisions related to SBWS in China: a case study of Dalian

The relocation and the privatisation of ISCs have generated new challenges to Chinese-style Seafarers' Clubs seeking to continue offering SBWS since the 1980s, especially after MLC came into effect. To illustrate further challenges that many Chinese port-based ISCs are facing, this section examines circumstances in Dalian.

Dalian, one of the busiest ports globally, is located in northern China (Figure 1), also one of the country's major seafarer-supplying regions. The authors conducted fieldtrips to Dalian in 2018 and undertook some interviews (Table 1). Interviewees included shipping company employees, lawyers, and visiting seafarers (Table 1: Fieldtrip 1, interviews, 2018).

Due to factors similar to those affecting the Shanghai ISC, the building of the Dalian ISC in the city centre was converted into a hotel several years ago. The club was then relocated to Dayaowan harbour, approximately 60 km from its original location in the city (Fieldtrip 1).

The broader paradigm shift, combined with the relocation particularly, has posed significant challenges for the provision of SBWS. Considering the distance from the Club to the city, the new location is not convenient for seafarers, except those serving on vessels calling at Dayaowan port of Dalian, representing roughly 20 per cent of seafarers visiting Dalian (Fieldtrip 1). So, approximately 80 per cent of visiting seafarers have little access to SBWS since their vessels are in other port terminals of Dalian (as reported in interviews with Dalian ISC staff and visiting seafarers: 2018).

In contrast, one interviewee from Dalian ISC claimed that:

Although the remote location is not convenient [for visiting seafarers], our SBWS is still the same. We are the same team, continuing to do all we can. We regularly visit ships, pick up seafarers from different harbours, and send them to the city centre (for shopping, sightseeing, medical treatment, etc.).

An interviewee from the local Seafarers' Trade Union¹³⁰ expressed the same view.¹³¹

However, other interviewees expressed different views. The visiting seafarers, shipping companies, and many industry players (such as shipping agents) claimed that the SBWS have shrunk significantly. For example, a shipping agency complained about transportation services because of its remote location of port terminals and related ISCs:

In the past, we called the ISC, and then their car would arrive immediately. Now, seafarers must usually wait a very long time for a car, and occasionally no car at all. So, we have to use 'Hei Che' [non-licensed taxi] because it arrives quickly but is more expensive than the club.

These interviewees also pointed out that both the amount and categories of SBWS have been reduced. For instance, transportation services, medical staff, translators, etc. (Fieldtrip 1: Interviews, 2018). In addition, the staff from Dalian Seafarers' Union (local trade union) echoed the changes in SBWS mentioned above (Fieldtrip 1: 2018).

Besides Dalian, the authors identified a similar erosion of SBWS in many other Chinese ports (Table 1; Figure 1). When ISCs experienced the paradigm shift 'from Marx to Market', the amount and categories of SBWS appear to have shrunk throughout China (1980s-now). The relocation of port terminals from the city centre to suburban areas in particular has exacerbated the gap between visiting seafarers' demands and the reduced SBWS that ISC providers can offer in China.

¹³⁰ In China, many Seamen' Clubs are affiliated to Trade Unions, which are part of the government. For instance, Dalian Seafarers' Club and Shanghai Seafarers' Club are both part of local seafarers' trade unions.

¹³¹ See the statement mentioned above by the Staff of Dalian ISC.

C. Reasons for the reduction of SBWS provision in China

China provided high-quality SBWS over decades before the passage of MLC 2006, but as this article has shown, the availability of SBWS has declined in recent years. According to the research undertaken by the authors, that reduction is the result of both international and national factors.

At the international level, MLC has some latent defects in its provisions on SBWS, as explained in Section IV. Therefore, in the analysis of subsequent practice, it is disputable whether national governments have implemented MLC, and if not, why not. In this regard, the authors interviewed many Chinese government officials. One senior official (anonymous) from the China Maritime Safety Administration (China MSA, the central government agency) claims that:

Firstly, China has fully complied with MLC by incorporating the convention into national legislation and instruments.¹³² Secondly, though some SBWS have been reduced, MLC has no mandatory requirements on what kinds of SBWS shall be provided. Thirdly, China is a developing country and cannot offer the same standard of SBWS as developed countries.¹³³ (Table 1: Fieldtrip 16 to Beijing; Interview, 2018).

At the national level, given that China is traditionally a land-based rather than sea-going country, off-shore occupations receive relatively little attention from the public or government. In our interview with Professor Wang from Dalian Maritime University, he claimed that “there is a lack of the recognition and appreciation of seafarers’ contribution to the society and the economic prosperity”, with the result that seafarers’ rights are treated as being inferior to the more extensive interests of a port city (Table 1: Fieldtrip 1; Interview in Dalian, 2020).

VII. New initiatives in China to ensure seafarers’ shore-based welfare

A. Good practice in providing SBWS in China: Lessons learned from Shantou, China

The authors’ fieldtrips have revealed good practices in China in implementing MLC effectively. The Shantou International Seafarers’ Club (Shantou ISC), for example, survived the industrial structural changes and the challenging paradigm shift outlined above and has thrived by taking initiatives in forming a public-private partnership (PPP) (Fieldtrip 14).

The Shantou club is located in a prefecture-level city on the southeast coast of Guangdong province, China (Figure 1). It stands out as a model provider offering the highest standard of SBWS in mainland China, as explained in this section (Table 1: Fieldtrip 14).

The club initially attracted the authors’ attention because of its official grading among all the ISCs in mainland China. Founded in 1951, only Shantou ISC is classified as ‘Grade I’ –the highest grade – among the officially listed 16 ISCs in China, followed by a small number of ‘Grade II’ ISCs (e.g. Qingdao ISC), and the rest graded ‘Grade III’ (Fieldtrip 16 to Beijing: interview of ACFTU officials). Securing Grade I means the club is awarded funding from the central government (Table 1: Fieldtrips 14-16). Even so, while such funding has unquestionably contributed to the club’s smooth running, the government has not been able to cover all the Shantou ISC’s expenditures (Figure 5). The Shantou ISC undoubtedly also suffered severely from the challenges as mentioned above (our interviews with staff of Shantou ISC). However, it has found a way out.

The government fund had at least two benefits. It allowed the Shantou ISC to focus on its

¹³² See detailed appraisal of relevant Chinese legislation in Zhang (n 76).

¹³³ The authors received several similar responses like this, from interviewees, thus this research addresses counterpart ports in western countries.

core purpose of seafarers' welfare (Figure 5), empowering staff to concentrate on work on the club's affairs rather than fundraising. Moreover, it strengthened the club's ability to hire a few additional employees to assist with providing SBWS (Figure 5; Table 1: Fieldtrip 14).

Figure 5: Breakdown of Financial Funds for International Seafarers' Club, Shantou, Guangdong, China

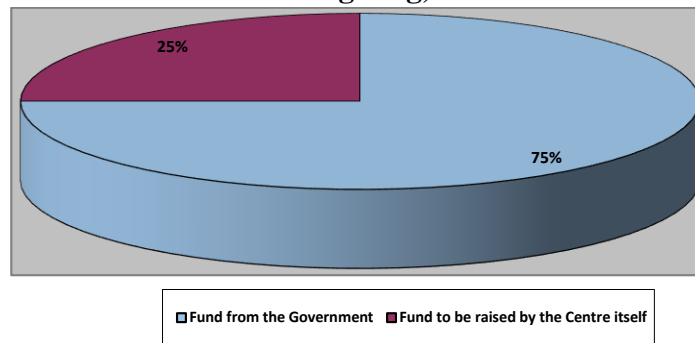


Figure compiled by the authors. Source: Fieldtrip 14 to Shantou ISC and the city; Interviews conducted by the authors with Shantou ISC staff. The club opens from 14-22:00 daily, providing various good-quality SBWS, including: a bar serving low-priced drinks and free coffee/tea, free Wi-Fi and computers with Internet access, one reading room, one meeting room, one pool table, and work-out facilities (e.g. ten mountain bikes, donated by the local MSA that shows a good relationship with local authorities).

At the time of privatisation, the authors found, the Shantou ISC secured 75 per cent of its annual budget from the central government, with the consequence that the need to raise funds was considerably reduced, ensuring the club's basic financial viability. Beyond this funding from the central government, the Shantou ISC also has created a PPP (see Section V.III). In addition, it has secured support (including financial support) from the local Trade Union (affiliated with ACFTU, a quasi-governmental agency). Further, the club has fostered favourable links with local personnel and relevant stakeholders (Fieldtrip14: interviews with Shantou ISC staff and local governments).¹³⁴

B. Good-quality SBWS in Shantou ISC

Another reason for Shantou ISC's success is that the club has taken various actions to adapt to the changing external environment and new challenges. The club set up a 'Seafarers' Home' within the new port area of Shantou. Though the Seafarers' Home is further away from the city centre than the club's previous location, it is still close to the visiting ships/seafarers, located in the port area with approximately one hour's drive from the club's previous premises in the city centre.

In a further response to reduced governmental funds and privatisation, the club also exploited its own premises, a five-floor building, in a creative manner. It rented out three floors of its building, contributing to 25 per cent of the club's financial needs (Figure 5). The remaining floors of the building have been turned into dedicated spaces for visiting seafarers. The club provides many SBWS (see Figure 5), similar to Tilbury and Hamburg Seafarers Centres. During the pandemic, the club brought groceries/gifts to ship-bound crews (Sections V.C-D).

¹³⁴ PPP will be explained in Section VII.C.

Before the pandemic, the club provides visiting seafarers with port-based transportation, pick-up services, and sometimes transportation services to other recreational spots. We have found that the Shantou ISC owns a van and uses it to pick up seafarers from berths easily and for free. Readers should remember that international security regulations preclude regular public transport and taxis for accessing ports. In contrast, the ISC staff can access the port easily because they hold the required documentation and are trusted by customs officials. For instance, the Shantou ISC occasionally offers seafarers transportation services downtown for shopping, free of charge. The club also organises free sightseeing trips for seafarers when the staff have time. For instance, the ISC staff sometimes bring seafarers from the port area to the ISC's downtown office, so that the seafarers can relax there and see the city.

Moreover, the club has employed three professionally trained English translators to help visiting seafarers. Additionally, they include several student volunteers with adequate English language skills, trained at a local college. The breakdown of the Shantou Club's staff includes paid positions and unpaid volunteers (the latter arrangement saves some expenditures in running the club and relevant SBWS).

Given the success of Shantou ISC and Hamburg Seafarers' Centre, these outstanding SBWS providers show at least two similarities. One is the large variety of SBWS provided (see notes below Figures 3-5). The other is the involvement of volunteers. However, the volunteers' motivation at Shantou ISC is not religious, unlike the western-style Seafarers' centres (e.g. Hamburg) (see Table 1: Fieldtrips).

C. Innovations of Shantou Seafarers' Club in forming public-private partnership (PPP)

Given the challenges as discussed above, many SBWS which ISCs previously provided are now offered alternatively by private market actors. New port areas are usually near villages, so many locals from those villages have set themselves up as vendors who provide services for visiting seafarers at many Chinese ports, such as Dalian, Tianjin, Shanghai and Shenzhen (Table 1: Fieldtrips 1, 2, 7 and 10).

This commercialisation of seafarers' welfare, however, brings new problems. With the emergence of 'new' service providers, many Seafarers' Clubs have encountered problems, sometimes even tensions, with local communities/residents, such as village citizens, near the 'new' deep-water ports in suburban areas.

To resolve this issue, Shantou ISC also provides an excellent example. While adapting to the market environment, as noted above, it has endeavoured to build good relationships with local communities. This effort to win support from the local community has contributed significantly to its success in SBWS (Fieldtrip 14 to Shantou; interviews with Shantou ISC, local government, and shipping companies). Initially, vendors from local villages were unhappy to see the Shantou ISC developing the Seafarers' Home. Local vendors felt that the club would take their business opportunities away. In addition, they feared that visiting seafarers would prefer using the club's free/cheap SBWS. Subsequently, during the club's first several months in the new port area, villagers even tried to prevent the Shantou ISC's van from picking up seafarers.

To overcome local resistance, Shantou ISC took action to develop a PPP step by step. In early days, they invited villagers and local government officials to attend the Seafarers' Home opening ceremony and made the local residents/vendors understand that the club/Home were not-for-profit organisations and that it was the duty of the Chinese government to provide such SBWS under MLC.¹³⁵ The club also agreed to invite local vendors to provide products/services for visiting seafarers each time the ISC was overwhelmed by too many ships calling

¹³⁵ See details in Section IV above.

simultaneously at the port. Moreover, the club has also secured support from the central and local governments. For example, besides financial funds mentioned above (Figure 5), some of Shantou ISC's facilities, such as ten mountain bikes, were also donated by the local authorities.

VIII. Conclusion

This article provides a fairly comprehensive and up-to-date overview of the current situation regarding SBWS under the Maritime Labour Convention (MLC 2006, as amended). It then uses dual perspectives supported by empirical evidence to evaluate how effectively MLC provisions on SBWS have been implemented. Detailed comparison is made of specifics of implementation by SBWS providers in China and several Western countries;¹³⁶ based on data collected during our fieldtrips (Table 1), a description is given of different attributes identified in the approaches adopted by different SBWS providers. In a final evaluation stage, the relative effectiveness of current law in this area is discussed, both overall and regionally,¹³⁷ and problems and good practices are identified, with implications as regards future development and reform.

This article has gone into considerable practical detail concerning the provision of SBWS. The justification for doing so is the essential function of shore-based welfare, and there has been little empirical research as to the effectiveness of MLC. This article argues that both the strengths and weaknesses of implementing requirements under MLC are to be found at this level. More generally, MLC is a vital convention for protecting vulnerable seafarers and the smoothness of global trade. Over the last several decades, global trade and shipping sectors, in particular, have changed and been fundamentally restructured by external and commercial environments in which ports are an essential cog but, for many, a minor concern. This changing landscape creates constant challenges for port States both in the West and East (including China) and particularly for seafarers.¹³⁸

Ports in China face two streams of challenges concerning the provision of SBWS. The first relates to technology-led structural changes in trade and shipping.¹³⁹ These industry changes prevent seafarers from being free to go ashore. As this article has shown, seafarers' centres/clubs have had to be relocated from the city centre to suburban areas.

Another challenge specific to ports in China is that Chinese ports and their SBWS have had to adapt to a paradigm shift from Marxist-Maoist thinking to the demands of the marketplace. In this context, the shipping and port sectors reflect wider-ranging social and economic transformation, resulting from rapid marketisation in China since China's 'Open-Door Policy' of the 1980s. Market-oriented forces/mechanisms have brought prosperity to China, helping to make the country one of the global trading nations. But the Chinese government has withdrawn much of its resourcing from non-profit service sectors, including SBWS.

Due to the shrinkage of non-profit-driven International Seafarers' Clubs in China, seafarers' needs for relaxation, shopping, and (re)connection with their families/friends/society have been primarily met by market-oriented actors.¹⁴⁰ This article argues that the gap between what seafarers need and what they receive deserves more attention from policy-makers (at

¹³⁶ See Section IV.

¹³⁷ See Section IV, and Sections V-VII, respectively.

¹³⁸ See Methods in Section II.

¹³⁹ See Section I.C.

¹⁴⁰ Sections VI-VII.

national and local levels) and industry stakeholders (such as shipping and crewing companies). Furthermore, actions must be undertaken to match better SBWS provision of and seafarers' needs in the ports.

China has demonstrated some excellent practice in implementing relevant international law and MLC provisions on SBWS in several respects, dating back to decades before MLC came into effect. Facing the challenges mentioned above, China has creatively fostered a public-private partnership (e.g. in Shantou), carrying out its work to provide free/cheap SBWS for visiting seafarers while making peace with local communities/vendors without jeopardising their livelihood. Lessons from Shantou may shed light on SBWS provision for other SBWS providers in and beyond China. For example, the authors' research has helped persuade shipping companies and the government in Shanghai to establish a 'International Seafarers Centre' within Shanghai (Yangshan) deep-water port.¹⁴¹

The Chinese shipping industry and the trade unions are enthusiastic about MLC provisions on SBWS. They have expressed interest in supporting more effective implementation of MLC. But while the central Government considers MLC Regulation 4.4 important, local and provincial officials think SBWS are the responsibility of local trade unions led by the ACFTU, a national quasi-government agency in China. Our research suggests, however, that all Chinese institutional stakeholders believe Regulation 4.4 would be most efficiently and effectively implemented in China if the central government were to issue more explicit instructions/rules governing the implementation of MLC. For instance, given that the Chinese Government has announced its plan to become a maritime power, the ACFTU could utilise China's existing maritime tripartite mechanism to link MLC Regulation 4.4 to China's Belt and Road initiatives.¹⁴² Such an initiative has the potential to win support from the central government and so improve SBWS in China for all visiting seafarers, regardless of their nationalities.

Word count: 12132, including abstract, keywords, tables, figures, footnotes, etc.

¹⁴¹ PRC Ministry of Transport, 'Yangshan International Seafarers' Club', 18/07/2019, <http://www.mot.gov.cn/difangxinwen/xxlb_fabu/fbpd_shanghai/201907/t20190726_3230944.html>.

¹⁴² State Council of PRC, The Belt and Road Initiative, <<http://english.www.gov.cn/beltAndRoad/>>.