

THE DIASPORA OF FILIPINO SEAFARERS: A Look at the Flag of Convenience (FOC) System

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I. Introduction

In an age of increasing transnational migration, it is indeed a wonderment that nearly one in every three workers at sea is from a single country, the Philippines, considered as the biggest provider of Filipino seafarers (or *marino* in Filipino), for ocean-going vessels in the world.

According to the International Seafarers Action Center (ISAC) Philippines Foundation, Inc., some 250,000 Filipino seafarers, by far the largest national group, ply the world's oceans and seas, primarily as deck hands, cabin cleaners, engine room oilers and cooks working aboard oil tankers, ships and luxury cruise liners.

Since being called part of the modern-day-heroes in the 1980s by then President Corazon Aquino, Filipino seafarers or seamen remain the pride of the Philippines. Filipino seafarers comprise 30 percent of the world's total merchant marine fleet which is about 1.5M with two thirds of them on board European owned ships. The labor deployment is seen to increase as the dollars sent home by the Filipino seamen comprise the bulk of remittances of overseas Filipino workers (OFWs). In 2010, Filipino seafarers sent home \$3.8 billion or higher than their remittances in 2009, at \$3.4 billion, according to the Bangko Sentral ng Pilipinas (BSP).

Yet, this special group of Overseas Filipino Workers (OFWs) remains largely invisible and ignored in studies about globalization, transnationalism and migration. Despite their significant contribution to prop up the Philippine economy, Filipino seafarers face the daunting task of having to fend for themselves – to a large extent, alone - in their effort to protect their labor rights and, hence, to support their families back home.

The country's seafaring history dates back to the peopling of the Philippines from parts of Asia, to the Spanish colonial period when Filipinos manned ships for Spain's world trade, through the U.S. colonial regime, and in the post-independence period. Seafarers thus were at the head of what would later evolve as a *diaspora* of Filipino migrants many of them settling at various destinations including America and other countries.

Special Group of OFWs and Diaspora

Today, overseas Filipino workers (OFWs) are present in at least 180 countries with many continually migrating from one country to the other where a significant number eventually live as immigrants. Unlike millions of other OFWs, however, Filipino seafarers generally do not find themselves as permanent immigrants or settling at different ports of the world. They are a special sector of OFWs who, under contract with their foreign shipping employers, are at sea for months and years – broken only by several port calls and then staying in the Philippines upon expiry of their contracts – so that after a lifetime of working as seafarers they spend the rest of their life in the homeland.

Seafarers are a unique occupational group who are recruited by international manning agencies and work under contract on board ships of different kinds: merchant cargo and container ships, deep sea fishing vessels, and cruise ships. Seafarers travel either globally or regionally over varying distances.

A study on seafarers as migrants acknowledges the unique place for the movement of seafarers in the existing theoretical context of labor migration. Seafarers undertake a particular type of “circulatory” or “transversal” labor migration and have established a special form of social identity. They are part of the growing number of “special” migrants all over the world within the framework of mobility and transnationalism.¹

The International Labor Organization (ILO) identifies seafarers as a major part of the maritime sector that provides manpower for two of its sub-sectors, namely shipping and fishing (the other two are ports and inland waterways).²

An analysis by Steven McKay, “At Home on the Move: Filipino Seafarers and the Making of a Transnational Ethnic Niche,” calls the seafarers “suspended migrants” – away from home but lacking a locally embedded workplace – they constitute their “own identities within the transnational communities, hierarchies and spaces of the ocean-going ships.”³

Despite being classified by the Philippine government as migrant workers, seafarers understandably have no host destination as they live and work traversing international waters all throughout their contracted time. Theories on globalization and trans-nationalism that stress the fluidity of “global networks” may view seafarers as “archetypal transnational subjects”: “hyperspace” inhabitants of “de-territorialized, non-places” such as ships. (Kearney 1999, Auge,1995 cited by MacKay, 2004).

For McKay, this perspective does not recognize the role of history and “the fact that people and their identities are never so free-floating.” In fact, he asserts, the ships themselves, rather than being “spaces of mobility and hybridity” are actually suffused with the “forces and inequalities of the international world and tend to reproduce a highly stratified order.”⁴

But many literatures agree that seafarers are a special group of OFWs who live their own diaspora, with certain things shared or held in common which others do not have, primary of which is their “area” of residence and work which is at sea. Hence their work is categorized as sea-based in contrast to the OFWs who are land-based. Their area of work which is the ocean-going vessel provides their space and point of identity as seafarers.

As a group, seafarers share a common culture. Their common culture – language, values, norms and beliefs -- as seafarers, working and living together in a state of community is occupation-based. Aside from sharing a common culture, seafarers share a common plight as workers and members of a hierarchical organization aboard their vessels of work. Their common plight includes shared problems constantly plaguing their sector concerning seafarers’ rights as contractual workers.

Flag of Convenience (FOC)

The group of seafarers in this paper refers to those who are hired and deployed on board ocean-going vessels that are supposed to be registered to a certain country. In this case, the flag of registry is the nationality of the vessel. This system of nationality prevails in the relations between the contracted seafarers and the employing ship, which is called the “flag of convenience” (FOC) system in which the

real owners do not register their vessels in their own country but in some other country and under a different flag.

An FOC vessel or ship is one where the nationality of the owner is different from the country of registration. The term has been used since the 1950s and comes from the flag that ships fly to show their country of registration. The country of registration determines the laws under which the ship is required to operate and to be applied in relevant admiralty cases.

More than half of the world's merchant ships (measured by tonnage) are registered under the so-called GOCs, more commonly referred to as "open registries." Traditional reasons for choosing an open register include protection from income taxes, wage scales and regulations. A specific example of the type of advantage flying an FOC offers is bypassing the 50% duty the United States government charges on repairs performed on American-flagged ships in foreign ports.

Proponents of FOC argue that where a vessel is engaged in international trade, capitalist owners should be free to register in the jurisdiction which best suits its commercial model. Proponents argue that the choice of flags allows companies to take advantage of another country's infrastructure and the efficiencies of effective and non-bureaucratic maritime administrations typically offered by the prominent open registers. International trade refers to the exchange of capital, goods, and services across international borders or territories. In most countries, it represents a significant share of gross domestic product.

Globalization has significantly influenced the dynamics of world trade. It has also affected ownership and operation of merchant ships. Long gone are the days of the traditional family-owned and -operated shipping companies. Ships today are commonly owned by multinational corporations and operated by multinationals.

This fact, according to ISAC president Atty. Edwin dela Cruz, "makes the traditional FOC argument of a national owner seeking an international jurisdiction largely irrelevant as there are few national owners."⁵

Many shipping companies operating mostly cargo vessels and tankers that prefer the FOC system come from the U.S., Japan, Norway, Denmark, Sweden, Australia, Germany, and France. They resort to the FOC system to avoid paying high wages and compliance with the strict labor standards of their own country which must be enforced in their flag vessels. They register their vessels using dummy companies from such countries as Bahamas, Barbados, Honduras, Panama, Burma, Jamaica, Liberia, and Marshall Islands.

The diaspora of Filipino seafarers exposed to the realm of experiences under the FOC system faces a daunting challenge as workers primarily, and as a people with a distinct culture to defend and promote alongside other nationalities aboard ships, which they consider as their own "community" – multicultural and hierarchical.

This paper will take a look at how the Filipino seafarers respond to the system that prevails inside their "community vessels" through the long and short years of their contracts with the shipping companies, and what policy interventions and/or mechanisms have been made available by the government in their homeland to assuage or mitigate problems they encounter in their work as they emerge and accumulate through the years.

The issue and problem of the FOC system is one such problem that, as time goes on, continues to be a burden for Filipino seafarers. The problem apparently stems from a macro-level policy deviation, with OFWs now regarded as part of foreign policy rather than just merely seen as economic.⁶

The FOC system, or the practice of ship fleet owners of flying a different flag, is currently the biggest problem among seafarers since the real ship owners are able to escape from their responsibilities whenever a seafarer is hurt or stricken ill, or dies while performing duties aboard the ship. What is ironic is that the Philippine government is unable to lend a hand in assisting the aggrieved seafarers.

II. Framework

Filipino seafarers are not only a distinct group of OFWs (being sea-based) but also a special sector that faces its own unique set of problems and issues with government because they are generally and technically under no legal protection from the Philippines while they are in international waters much less from shipping companies or the countries of the ships' origin.

There is no clear international treaty that effectively protects the rights of seafarers all over the world. Only a couple out of some 30 international treaties and conventions governing seafarers' and other workers' rights have been ratified by the Philippine government.

It is important therefore to appreciate the situation of Filipino seafarers aboard FOCs – their working conditions including their wages, the relationships within the organization inside the ships and shared culture.

Common among varied definitions relating to culture emphasize one of its critical aspects – the idea that certain things in groups are shared or held in common. This paper uses the framework of organizational culture to look into how the seafarers manage and resolve encountered problems at work in their environment at sea. In particular, how do the cultural values, norms, attitudes and beliefs of one group reconcile with the prevailing system of the FOC?

How do they cope with the different work conditions under the FOC system that may otherwise bring forward the perennial issues of discrimination, substandard work environment, grossly inequitable wages and oppressive contracts and requirements for hiring and promotion, even involving incidents of crime and violations on their beings and property in the particular setting or organization of the ocean going vessel of ship where the seafarers work and stay?

In addition, this paper considers the ocean going vessel as a work area and “settlement” for its work force of seafarers and is in itself a learning organization. This paper takes stock also of the principles operating in a learning organization, or even an aspect of it, in the community of seafarers aboard their work vessel that is designed as FOC.

According to Peter Senge (1990), learning organizations are those where people continually expand their capability to continually learn how to function together as a team and adapt to the same conditions prevailing anywhere they operate.⁷

Onboard ships where they are part of an over-all organizational set-up, seafarers in practical terms, are compelled by the nature of their contracted jobs, to adapt to their new environment inside the ship

based on their individual occupations with “routine, standard responses often resulting in short term solutions.” This is what Senge calls “adaptive learning” which is mainly mechanical responses of people to the conditions obtaining in their environment.⁸

But beyond adaptive learning, Senge talks about another type of learning, called “generative learning” which refers to the “re-engineering of the organization’s experiences and learning from that process.”⁹ This type of learning involves changing the organization’s culture, as it emphasizes analyzing the effects of decisions and changing responses as needed. (Luthans, 1995) Given the highly mechanical nature and character of the organization owned by big foreign shipping companies to which the Filipino seafarers belong, will generative learning thrive and develop?

The Filipino seafarers working in FOCs are therefore a special sector of OFWs who are compelled to manage, deal, accept or adapt to the working conditions and system operating in foreign-owned international ocean-going vessels that are registered in another country’s name.

Thus, this paper looks at the Filipino seafarers in a new light and tries to entangle what makes them different from their other counterpart OFWs even as they are bound by the common pattern of *diaspora*.

It will try to look at the profile -- including the organizational culture-- of the seafaring sector inside their “settlement” which is the ocean-going vessel; what drives them to become seamen and then dissect the problems that they face as they journey to various destinations under the FOC system.

In addition, the paper attempts to look at the interventions available to the seafarers as they confront the multi-faceted issues of their work under this system away from their homeland amidst the varied contending processes and legal infirmities prevalent in other countries?

To ascertain how the seafarers perceive and appreciate the actions or inactions of government and other political institutions tasked to address OFWs’ and in particular, the seafarers’ plight, this paper also uses certain concepts of political culture, dialectically relating these with those of organizational culture and learning or adaptive learning from a systems theory perspective that all things given, the issues are system related. The paper proposes that these concepts and issues are interrelated and dialectically connected with one another, and are rooted in the system prevailing in the work areas and society in general.

Onofre D. Corpuz succinctly describes political culture as one that has “a superstructure of attitudes and values of Western origin, resting on a definitely indigenous infra-structure.”¹⁰ From the West comes “individualism” and consideration for the rule of law”¹¹ being adapted from the point of view of the Filipino’s indigenous framework.

The political culture of a community or people reflects and is shaped and determined by the society’s general culture. As a concept, culture is about what is held in common and shared by a group of people over time that is regularly reinforced through contact with each other and with non-group members.¹² It includes beliefs, customs, rituals, behaviors, expectations, and attitudes that are internalized by subject individuals and widely shared among people in a community.

The shared values, attitudes and beliefs of the Filipino seafarers reflect and are determined by the general culture prevailing in Philippine society. But following the framework of political culture, they

differ in terms of how they look at the rule of law and political institutions depending on their widely shared experiences in their work aboard FOCs, their place of work.

In consideration of this concept, the paper will also look at what Schein (1992) calls the group culture¹³ of seafarers in a particular environment which include group norms, “rules of the game,” climate,” embedded skills and shared meanings.” which they share or hold in common while working and living together as a community. Their community or particular environment is the vessel where they work and stay for most of their waking hours all through the years of their contract as seafarers.

Group norms, in Schein’s paradigm, are the implicit standards and values that evolve in working groups, such as the particular norm of a “fair day’s work for a day’s pay” and accountability of the employers to safeguard the rights and wellbeing of the seafarers while on board their ships.¹⁴ “Rules of the game” on the other hand, are the implicit rules for getting along in the organization inside the vessel, the “ropes” that new comers must learn to follow, “the way we do things around here.” (Schein, 1978; Ritti and Funkhouser, 1982).¹⁵

Filipino seafarers being away for a long time from their homeland work and live not on settled communities but on board ships that traverse the seven continents across the seas. Another significant concept therefore that is incorporated in this paper is trans-nationalism which advances the notion of *emporium*¹⁶, in which the circular and transversal journeys of seafarers are viewed as a connecting space between land-based areas; a space which provides a basis for an extended knowledge and understanding of different cultural outlooks, relations between nations and international agreements that relate with peoples of different origins, cultures and nationalities.¹⁷

While the cultural make-up of the seafarers is given emphasis, the paper does not entirely rely on the framework of cultural studies in its analysis of the problems, which in this paper, are not merely cultural issues. The problem of the FOC system affecting the general welfare and rights of the seafarers goes beyond the problem of socialization, behavior, norms, beliefs, and the like.

Over-all, while this paper uses the various concepts of culture –political and organizational -- and trans-nationalism, it chooses to dialectically link these to the issues and problems being encountered by Filipino seafarers working in FOCs and the particular interventions or responses to these by government and international bodies.

III. Related Literature

This paper is informed by recent studies about Filipino seafarers. Among these is Steven McKay, “At Home on the Move: Filipino Seafarers and the Making of a Transnational Ethnic Niche,” presented at the 2004 annual meeting of the American Sociological Association, San Francisco California. It is one of the first close studies of Filipino seafarers and their rise in international shipping focusing on the seafarers and ships not simply as sites of global fluidity but also as sites of “social action at the margins” that illuminate the political processes of place – and difference-making.

McKay points out the ever-accelerating flows of goods, people, and capital across the globe that has spawned a deepening of cultural differences and a growing politics of “exclusion and belonging.” It cites the significant role of the Philippine state and how, in its attempt to harness the resources of the Diaspora, has helped construct the Filipino seafarer as both “cheap labor and nationalist hero.”

Another, also by Steven C. McKay, is “Filipino Sea Men: Constructing Masculinities in an Ethnic Labour Niche” (*Journal of Ethnic and Migration Studies*, 1469-9451, Volume 33, Issue 4, 2007, Pages 617 – 633). The study analyzes the emergence and contemporary reproduction of the Filipino ethnic niche in global seafaring and the construction of a Filipino seafarer identity. It also documents the role of the Philippine state in promoting and regulating the seafaring niche and in crafting narratives of heroism and masculinity to reinforce it.

Focusing on seafarers themselves, the study shows how the construction of exemplary styles of masculinity at home, despite subordinate racial and class positions both onboard and in the labor market, helps Filipino seamen endure the harshness of workplace conditions, while at the same time defend and reproduce their gendered ethnic niche.

Maria Borovnik’s *Seafarers’ “Maritime Culture” and the “I-Kiribati Way of Life”: The Formation of Flexible Identities* (Macmillan Brown Centre for Pacific Studies, University of Canterbury, Christchurch, New Zealand, c2005), examines how seafarers from the Pacific Republic of Kiribati cope with the experience of working with crews of different nationalities, and, further, how the exposure to different cultures during their journeys through international waters influences both their own identity as well as their perceptions of I-Kiribati culture.

The study also shows how the seafarers from Kiribati began to learn to adapt to their new work and living environment through routine, standard responses as others according to the organizational set-up onboard their vessels, their “home” and work areas during their period of job contract.

Diana J. Mendoza’s “Understanding the Philippine Political Culture” tackles the question of including in the matrix of study of politics and its instrumentalities like legal structures, a society and a people’s cultural foundations within which the political and legal system operates. Political culture, Mendoza says, is part of the general culture of a society. It refers to a people’s attitudes and orientations to politics and law and how Filipinos adapt themselves to the “rule of law.”

Other studies that provided insights and related literature to this paper are by Yen Le Espiritu (2003) who tackled the issue of migration of Filipino Navy men in the U.S. highlighting the varied voices of Filipino Americans. The study also calls attention to their creative potential to make a home under some of the most inhospitable conditions. Catherine Ceniza Choy, “Empire of Care: Nursing and Migration in Filipino American History (2003) studied “Why is it that a developing nation like the Philippines with a comparatively greater need for trained medical professionals sends so many of its nurses to work in wealthier countries like the U.S.?”

IV. Objectives

This paper seeks to address the problems of the Flag of Convenience (FOC) as it affects the Filipino seafarers’ rights and well-being.

While these problems need to be addressed, it is important to appreciate the situation of Filipino seafarers: How many and who they are, under what conditions they work at sea, how they live and work onboard a ship with other seafarers from different nationalities and cultures, and what problems associated with their group culture and the system at work occur in their daily grind as seafarers.

Despite being a problem, what are the cultural factors and other considerations why Filipinos persist in working as seafarers in FOCs?

What have been the interventions provided by the Philippines government in relation to addressing or at least mitigating the problems related to the FOCs and their effects on the Filipino seafarers?

V. Brief Background

Diaspora (a scattering or sowing of seeds or dispersal/dispersion) refers to any people or ethnic population forced or induced to leave their traditional ethnic homelands, being dispersed throughout other parts of the world, and the ensuing developments in their dispersal and culture. Originally, *diaspora* referred specifically to the Jews exiled from Judea in 586 BC by the Babylonians, and AD 135 by the Romans.

The probable origin of the word is the Septuagint version of Deuteronomy 28:25, "thou shalt be a diaspora (Greek for dispersion) in all kingdoms of the earth". To facilitate colonization, citizens of a grand city were asked to migrate to conquered lands to ease assimilation of every colonized territory into the Greek empire. And these ancient Greek migrants were referred to as "Diaspora". The term has been used in its modern sense since the late twentieth century.¹⁸

Before Ferdinand Magellan laid claim on the Philippine islands for Spain in 1521, the country was already a destination for habitation first by the Aetas or "Negritos," then by the Austronesians who originally came from southern China, next by the Majapahit Empire of India, and later by Islam through the Arab merchants who traded in certain parts of the archipelago.¹⁹

For nearly three centuries lasting until 1815, Filipino crew members known as "Luzones Indios" were on board Spanish trading ships or "Manila Galleons" that sailed the Pacific Ocean to bring goods from Manila to Acapulco (now Mexico). Historical accounts tell of Filipinos jumping ship upon reaching the high seas or the shores of foreign territories to escape the hostile conditions they had to bear onboard the Spanish ships.

The United States has had a great influence on Filipino involvement in shipping since the early 20th century when it began recruiting Filipinos following colonization in 1898. However, the Navy also restricted Filipinos to the ranks of stewards and mess boys, thus initiating a racial division of labor that remained virtually unchanged until the 1970s. By that time, there were over 14,000 Filipinos in the US Navy, or more than in the entire Philippine Navy.²⁰

Curtailed U.S. Naval recruiting in the 1970s had a direct impact on the explosion Filipinos in the global merchant marines, which began recruiting heavily from developing countries at about the same time. In 1960, only 15 percent of the world's seamen were Asians. By 1987 Asians--mainly from the Philippines, South Korea, India, and Indonesia--constituted 67 percent of the seafaring labor force (Turnbull 2000).

Crewing has become increasingly multi-national; about a third of all ships have crews consisting of four or more nationalities and it is quite common, for example, that a Norwegian ship, flying a Panamanian flag, will sail with German or Norwegian senior officers that request an all-Filipino crew.

Sometime in 1906 during the U.S. colonial period (1898-1946), a group of 15 Filipino men who hailed from northern and central Philippines set foot on Hawaii to work in sugar plantations. They were hired by the Hawaiian Sugar Planters Association – probably the country’s first overseas employment provider.²¹ By 1930, the number of Filipinos working in sugar and pineapple plantations of Hawaii had reached 150,000. While many returned to the Philippines after their contracts ended, others eventually worked in canneries in Alaska, as farmers in Washington, and fruit pickers in California. In the 1940s, some 70,000 Filipinos were staying in the U.S. as migrant workers. From 1946-1965, over 34,000 Filipinos left for the U.S. to work and immigrate.

Interestingly, the earliest Filipino immigrants to the United States were *Filipino* sailors. Consequently, Filipino seamen were found in many ports around, in Europe, Asia, Middle East, and across many continents. But it was to America during this period that most seafarers and immigrants on the whole were mostly magnetized.

America, however, was not the only destination of Filipino workers and immigrants during this period. Barbers, artists, musicians, and contract workers went to various Asian and European job destinations including North Borneo (now Sabah and Sarawak) where about 25,000 Filipinos worked for five years during the 1950s under the first bilateral labor agreement with the United Kingdom.

In the 1960s, Filipinos worked in logging camps in Kalimantan, Indonesia while construction workers were recruited for the U.S. military in Vietnam, Thailand, and Guam. Soon Canada opened its borders to Filipino nurses and other women professionals. The Middle East came next in 1969 with 3,694 workers hired for massive infrastructure and development projects.

The promotion of Filipino labor (professional and skilled) abroad received a big boost during the Marcos dictatorship (1972-1986) under the labor-export policy. The policy led to the increase in the deployment of Filipino contract workers (now overseas Filipino workers or OFWs) from 14,366 (with 38% going to the U.S. and 26% as seafarers or sea-based workers) to 2.4 million in 1986.²²

The yearly deployment of OFWs, including professionals, to foreign destinations has jumped over the last 23 years, from 2.5 million to more than 4 million. At any time, the number of Filipinos abroad, including permanent residents or immigrants, is between 8-10 million, more than half of these as temporary workers – all found in at least 180 countries worldwide. This total includes about 250,000 Filipino seafarers on board transoceanic ships.

The Philippines is probably not only the most multinational country in the world but its labor force deployed overseas includes construction workers, domestics, caregivers, cleaners, drivers, to doctors, nurses, engineers, artists and entertainers, commercial pilots, aircraft mechanics, air traffic controllers, plant engineers, and other very specialized skills.

VI. Findings

Situation of Filipino Seafarers. As a continuation of Marcos’ labor-export policy reinforced by the globalization of trade and services, the Philippines has become the biggest supplier of seafarers in the world with roughly 237,4023 – constituting nearly 29 percent of the world’s total population of seamen on board ships engaged in international trade.²⁴ The Filipino seafarers’ estimated remittances of \$3.5 billion (2008) represent about 31 percent²⁵ of the total remittances sent to the Philippines by OFWs.²⁶ Still, the number of Filipino seafarers constitutes less than 50% of some 550,000 registered seafarers.

Seafarers generally follow a hierarchy of roles in their work places aboard ships: The following is an organizational diagram showing the hierarchical set-up aboard a regular ship:

The list of officers and crew are the following: the Captain, Chief Mate, Second Officer, Third Officer, Fourth Officer, Boat Swain, Carpenter, Able Seaman (AB), or Ordinary Seaman (OS). Furthermore, assisting the Captain are the Radio Operator, and Chief Engineer); under the Chief Mate are the Chief Steward and Chief Officer; the Chief Steward has the Chief Cook, and 3 Stewards; Chief Engineer has the Second Engineer, 3rd Engineer, and 4th Engineer; the Third Officer has the Machinist, Oiler, Wiper; the Third Engineer has the Electrician. Among them, however, there are only Captains hired while mostly employed are of low rank.²⁷

In all situations, the Captain occupies the most coveted and powerful position. He is the captain of the ship, and the captain of the soul of every seafarer onboard.

The seafarers who are hired are deployed on board ocean-going vessels that are supposed to be registered to a certain country. In this case, the flag of registry is the nationality of the vessel.

Unfortunately, however, what prevails is the so-called “flag of convenience” (FOC) system in which the real owners do not register their vessels in their own country but in some other country and under a different flag.

Many shipping companies operating mostly cargo vessels and tankers that prefer the FOC system come from the U.S., Japan, Norway, Denmark, Sweden, Australia, Germany, and France. They resort to FOC to avoid paying high wages and compliance with the strict labor standards of their own country which must be enforced in their flag vessels. They register their vessels using dummy companies from such countries as Bahamas, Barbados, Honduras, Panama, Burma, Jamaica, Liberia, and Marshall Islands.

It is said that the FOC governments do not really care what labor or safety standards are followed on board the vessels flying their flag.²⁸

The surplus market of Filipino seafaring force forces many of them to accept being hired by FOCs that, in turn, offer low salaries otherwise they run the risk of spending months and even years without employment. Aside from low pay, Filipino seafarers suffer the hazards of boarding unsafe, poorly-manned vessels which do not comply with international labor standards.

Aside from the fact that only less than 50 percent of the Philippines seafaring force²⁹ gets to board foreign vessels, Filipino seafarers are also saddled with other problems. Filipino seafarers are hired for contractual and temporary employment, with most seafarers employed onboard only for six to nine months. With temporary employment contracts, seafarers and their unions are at an immense disadvantage in bargaining for better terms and pay³⁰. There is no standard pay scale given by foreign vessels hiring Filipino seafarers.

The average monthly benchmark pay for seafarers is \$1,350 (2004) but Filipino seafarers receive less than that because of a temporary freeze offered by the Associated Marine Officers and Seamen’s Union of the Philippines (AMOSUP) which is affiliated with the International Transport Workers Federation (ITF) and which represents Filipino seafarers in maritime-related government bodies.

Seafaring is a highly-globalized market and the Philippine government promotes cheap labor for its overseas-bound working force in order to ensure the flow of remittance revenues.

Aside from these, Filipino seafarers suffer from exorbitant fees charged by many training schools³¹, poor working conditions, inadequate food and accommodation, port restrictions (particularly in the U.S.), sea accidents/ mishaps, lack of medical care, discrimination, piracy/abduction, and general lack of protection provided by international law. For the Filipino seafarers, "life at sea is modern slavery and their workplace is a slave ship."³²

Like their counterparts in land-based employment across the globe, Filipino seafarers are generally left to suffer alone industry exploitation, oppression, and other vagaries with no adequate union protection let alone government support whatsoever.

Under the FOC system, Filipino seafarers have no means of protecting themselves against unfair labor practices, exploitation or other crimes. It is also clear that while at sea, Philippine laws offer no protection and international conventions governing the seafaring industry, are either ineffective or cannot be invoked by a country (Philippines) which, anyway, has a poor record in international treaty commitments.

It all begins with the place or address of the seaman's residence. Because they are always on board and in international waters, the Filipino seafarers' place of residence remains their country of origin. For instance, even if the vessel is registered to an FOC like Liberia chances are, the seaman will never even see Liberia during his entire voyage.³³

To date, there are 32 countries being used as FOCs: Antigua and Barbuda; Bahamas; Barbados; Belize; Bermuda (UK); Bolivia; Burma (Myanmar); Cambodia (Kampuchea); Cayman Islands; Comoros; Cyprus; Equatorial Guinea; French International Ship Register (FIS); German International Ship Register (GIS); Georgia; Gibraltar (UK); Honduras; Jamaica; Lebanon; Liberia; Malta; Marshall Islands (USA); Mauritius; Mongolia; the Netherlands; Antilles; North Korea; Panama; São Tome and Príncipe; St Vincent; Sri Lanka (Laos); Tonga; and Vanuatu.

Problems. Various cases involving Filipino seafarers aboard FOCs demonstrate the increasing danger for the security of the working crew and officers.

In October 2008, the *M/V African Sanderling*, with 21 Filipino seafarers aboard, was hijacked by rebels in Somalia.

Before that, the *M/V Efximos* exploded off the coast of United Arab Emirates (UAE) leaving four Filipino seamen dead. The ship was owned by Greek nationals but used the Maltese flag as its carrier.

All of these ships were flying FOCs and it had been difficult for the families and even the organizations advancing the rights and welfare of the Filipino seafarers to make the ship owners accountable because FOCs conceal their true identities.

Lawyer Joseph Tolang Entero, vice-president and secretary-general of ISAC Philippines Foundation, Inc., said the practice of FOC is being done by shipowners to protect their interests, enabling them to evade accountability if ever the ship and the workers get into trouble. This way, international authorities and international maritime safety inspectors are "duped" regarding the ship's true identity.

On board the vessel, what prevails is the law of the vessel's country of registry. In most cases, however, what also prevails is the law of the ship's captain.

Once on port calls, Filipino seafarers become subject to the jurisdiction of the host country. There have been cases where Filipino seafarers, accused of committing crimes while on port call, are jailed for long periods with hardly any legal intervention from the Philippine government.

Another case is that of a Filipino seafarer who allegedly stabbed a compatriot seafarer on board a Panamanian FOC vessel (actually owned by a Japanese company) while inside waters that are disputed by China and Taiwan. The case would have been brought either to Panama - which has jurisdiction over the ship as an extension of its territory - where the laws are more stringent or to China or Taiwan.

To evade further complications, the Swiss captain had a Taiwanese chopper fly the wounded Filipino to a Taiwanese hospital and, upon returning the ship to the Philippines, just set free the alleged stabber. With the captain – considered as the “arbiter, prosecutor, and judge” in most ships - having dispensed with the case the crime was henceforth forgotten.³⁴

Why do Filipino seafarers have no access to Philippine labor laws? Philippine labor laws are generally designed for land-based workers while existing laws are applied selectively to seafarers – despite the Filipino seafarers' contribution to the GDP.

The development of labor law and industrial relations in the Philippines has been defined by the “uneven accumulation and industrialization to encourage foreign investment and develop export-oriented industries, and an open economy.”³⁵ In effect, the country's labor laws and regulations are subordinated to the demands of the global maritime labor market. This has become more evident in the era of capitalist, free trade-driven globalization. And, despite the Philippines' being a signatory to the ILO, International Maritime Organization (IMO), and a few other international labor conventions, implementation is followed more in breach – while international labor bodies have no enforcement powers on shipping firms.

The Philippine Labor Code declares as state policy “to ensure the participation of workers in decision and policy-making processes affecting their rights, duties, and welfare” and “to promote free trade unionism as an instrument for the enhancement of democracy and the promotion of social justice and development.” But this is a fiction particularly in the international waters: union stewards on board ships are rare and there is hardly any election of union officers.³⁶

Concerted action through strikes is extremely hazardous. Unionism in the seafarers' sector is said to be dominated by AMOSUP, formed in 1960, which is also a big placement office deploying union members to shipping and manning agencies. In this case, the union becomes an agent of the employer – a “conflict of interest.” As previously mentioned, AMOSUP is represented in various policy-making bodies with government and industry and in seafarer-related conferences of the ILO and IMO.

Meanwhile, lawyer Edwin dela Cruz, president of the International Seafarers Action Center (ISAC), said that out of 30 international labor conventions, only four are ratified by the Philippine government.

Seafarers' groups in the Philippines have formed an alliance, the Decent Work for Seafarers Alliance to push for the ratification of the Maritime Labor Convention (MLC) which was adopted by member-states

of the International Labor Organization (ILO) in 2006. So far, only five countries, namely, Norway, Liberia, Panama, Marshall Islands, and Bahamas have ratified the convention while the rest of the members, including the Philippines, have not. Thus, the convention has not been enforced.

The MLC provides comprehensive rights and protection at work for the world's more than 1.2 million seafarers. The new labor standard consolidates and updates more than 65 international labor standards related to seafarers adopted over the last 80 years.

The Convention sets out seafarers' rights to decent conditions of work on a wide range of subjects, and aims to be globally applicable, easily understandable, readily adoptable and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO).

Dela Cruz reiterated the importance of the MLC's ratification in protecting the rights and welfare of seafarers. He expressed hope that through the MLC, violations of seafarers' rights such as inadequate pay, long working hours without compensation, gender inequality, racism, and dangerous working conditions while at sea, will be prevented and stopped.

"We also hope that through the MLC, the Flags of Convenience (FOC) will be completely eliminated and ship-owner and State accountability will be easier to pinpoint," he said.

Not much is being done in the Philippine Congress, either. On account of red tapes, overlapping functions, powers, turf infighting, and corruption in the muzzy web of government regulatory bodies³⁷ that supervise the seafaring sector and maritime industry including maritime schools, training schools, and manning services, a number of bills have been introduced in Congress. Filed since the previous congresses, these bills – which include streamlining and rationalization, the establishment of a Department of Maritime Affairs, a Maritime Code, and stricter regulations to ensure maritime safety – remain in the backburner, however.

Available mechanisms put in place by the government to address problems related to the system of the FOC have been mainly done through the route of the Philippine Overseas Employment Agency (POEA), Department of Foreign Affairs, Maritime Regulatory Authority (MARINA) and non-government organization (NGO) initiatives and interventions.

But the bottom line, according to dela Cruz, is on the policy level, the ratification of the MLC, which would help engender more positive laws and regulations governing the system of ship operations and governance vis-à-vis ensuring the rights and welfare of the seafarers, the propelling force in the shipping industry.

Culture. Without a definitive policy and laws governing the ocean-going vessels and their crew, Filipino seafarers are clearly left with holding on to existing mechanisms of adaptation and learning. The problems about low wages and working conditions are clearly not cultural and caused by simple cultural misunderstandings.

But it is the Filipinos' cultural tenacity, especially to adapt and go along with the dominant values, attitudes, group norms and "rules of the games" inside the organization within the ship, that make the

life of the Filipino seafarers “less stressful and less intimidating,” according to Atty. Joseph Toland Entero, Vice-President of ISAC.³⁸

“Ship owners find Filipino seafarers very flexible and adaptable in any kind of environment,” according to Entero. This is partly explained by the deeply-rooted “maritime culture” that dates back to the Spanish galleon era where the Filipinos always followed without complaint, the masters who are the captains.

The hierarchical set-up within the organization aboard the ship naturally compels the seafarers down the line to obey all command without any complaint.

Group Norms. The implicit standards and values that evolve and are acquired by the seafarers are reinforced more by the organizational set-up, often conflicting with the long-held norm of “a fair day’s work for a fair day’s pay.” The experiences of Captain Reynaldo Meliton of Cebu, now retired after 25 years of work as 3rd mate then 4th Engineer aboard FOCs owned by the Greek, Japanese, and Dutch in succession, mirror the experiences of many other seafarers who work aboard FOCs.

Meliton was direct hire, i.e., hired as 3rd mate directly by the ship company not through a manning agency, for a vessel owned by the Netherlands but carrying the flag of Panama in 1989. He worked with 12 nationalities of seafarers at one time working on the vessel. Filipino seafarers then received comparatively lower wages than their European counterparts. The salaries for the Filipinos were determined by the FOC system but those of their Dutch counterparts were determined by the Dutch owners. There was no way to complain because the “rules were there to follow.”³⁹

Rules of the Game. There exist implicit rules for getting along in the organization. In Meliton’s experience, the best behavior and attitude that low-paying Filipino seafarers can demonstrate is to “go along” with the dominant views in the organization. “Pakikisama” is the Filipinos’ way to adapt and get along with the others. Oftentimes, *pakikisama* (going along well) is combined with being “*pasyensyoso*” (patient) and “*matiisin*” (work without complaint). This was important for him because he had to show his “best” toward his superiors who would always pat him on his back in acknowledgment.

At one time during his contract with a Dutch-owned vessel Meliton was allowed to bring his wife to Rotterdam in the Netherlands. Another Filipino seafarer who had shown “the best Filipino culture” to his superiors was also given the privilege of bringing his wife to the Netherlands after a long period of separation from his family.

Meliton’s wife returned after a month to the Philippines but the other seafarer and his wife chose to remain and the wife eventually found a job as a domestic help to augment the seafarer’s income. Both supported their parents and other relatives in poor rural Samar.⁴⁰

This does not apply to seafarers in general but to land employees of ship owners and manning agencies who hold office somewhere else. Even most seafarers on board Greek vessels do not really go to Greece. Exceptions are the crew of domestic vessels who are considered as migrants already. The point of hire is always the Philippines unless they are direct hired seafarers which are usually prohibited under the POEA rules.

Some senior officers like captains and chief engineers are allowed to bring their spouses to the port of call or even on board the vessel at company expense. These are temporary arrangements except if they decide to migrate.

Some seafarers decide to jump ship and to stay as undocumented migrants in some countries. There is no documented number of seafarers who have jumped ship but ISAC and UFS report of countless anecdotes and accounts of witnessing Filipinos who actually jump ship and who are now living with residents in the usual port of calls abroad. But there is no accurate data on this matter.

Meliton admits these are problems prevalent among members of the union who find jumping ship and settling in some countries more beneficial for their families once they found other alternative jobs abroad. Working aboard FOCs give them comparatively lower pay than their European or Western counterparts, so if they find a better paying land-based job, they jump ship.

In the interview, Captain Meliton argues that one reason why jumping ship is a better option for some Filipino seafarers is that FOCs also do not provide the same protection for the Filipino seafarers because they are not *kababayan* to the owners of the ships.

“We do not have exact figures how many but there are many and their number is increasing because of the dire state of poverty in our country,” Navarro said.

VII. Conclusion

The diaspora of Filipino seafarers *just* like the whole phenomenon of Filipino diaspora elsewhere, is understandably driven by economic necessity and the need to survive domestic poverty brought about by the economic failures of every political leadership whose socio-political survival ironically is also badly dependent on the same Filipino workers driven away from home.

The government’s overseas employment program through the years increasingly became more aggressive and was pursued as a development strategy. It was in the time of the administration of Gloria Macapagal-Arroyo (2001-2010) when it became a centerpiece of the government’s poverty alleviation program and also the *‘pillar of the government foreign policy’*.

Under President Fidel Ramos (1992-1998), the aggressive overseas development program was part of the effort to repair the damage wrought by a series of controversial OFW cases that brought President Ramos to facilitate and rush the passage of Republic Act No. 8042, also known as the ‘Migrant Workers Act of 1995’. Among other things, RA 8042 defines a ‘migrant worker’ as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a legal resident to be used interchangeably with overseas Filipino worker.

But the law is not enough and lacks teeth in addressing the problems of OFWs, in this case of the Filipino seafarers, because the more important international covenant, the MLC remains, ungratified by the Philippine government.

In its paper titled “Flag of Convenience and Philippine Setting”, the seafarers’ group ISAC said: “As a supplying state, it appears that the Philippines is more keen on sending more and more Filipino seafarers on board ocean-going vessels and to benefit therefrom, through the dollar remittances they send back to the country.”

“To ensure the steady growth of labor supply, the government, while praising them as the modern-day heroes, considers Filipino seafarers as mere commodities (as) the value of their services are being reduced or diminished to make them more competitive with other supply countries as China, India, Indonesia, Pakistan and other European countries,” it further stated.

This study concludes that the problems related to the FOCs in particular can only be decided on the policy level. But the hands of the government are tied due to its weaknesses in addressing the problems of the continuously weakening local economy and its dependence on foreign companies including shipping firms to recruit its work force aboard their FOCs.

“The government is unable to provide jobs to its own people, so it cannot afford to antagonize the big foreign ship owners who control the operations of the ocean-going vessels,” ISAC said in a statement. The FOCs are a mechanism for the giant shipping companies to earn more profits by maintaining a pliant low-paid work force and avoid bigger taxes.

Since there are not enough safeguards and no international law has been ratified yet to ensure the protection of the seafarers’ rights and well-being, Filipino seafarers have only their own selves to rely on. Adapting or just accepting their dismal situation is the most prevalent option.

But for the organized forces of seafarers like the ISAC, the only way to win the fight over the FOC system is to organize the seafarers and to make them realize how this instrument poses enormous dangers to their rights.⁴¹

VIII. Recommendations

- 1) Congress: Revisit of the Labor Code with a view toward integrating or clarifying the rights of Filipino seafarers and the obligation of the state; should also ratify other international labor treaties or conventions most especially the ILO’s Maritime Labor Convention;
- 2) Executive Department: Should streamline maritime-related agencies whose functions tend to conflict and weed out redundancies;
- 3) Filipino seafarers: To form effective unions to counter yellow unionism that has long haunted the seafaring sector; unite themselves with other OFWs especially in dealing with prevailing FOC system;
- 4) More studies should be done with regard to the situation of Filipino seafarers;
- 5) For NGOS and private groups: To help provide legal, moral, psycho-social and other forms of intervention to victims of injustices committed aboard FOCs;
- 6) Revisit the decades-old labor export policy of government to be replaced by an emphasis on job-creation at home. This also entails reviewing globalization policies that promote the export of cheap labor for the capitalist-controlled international market;
- 7) Develop a national shipping industry which would accommodate and harness the skills and knowhow of Filipino seafarers and maritime professionals.#

End Notes

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- 22 *Ibid*
- 23 Bobby Tuazon, "World and Philippine maritime industry", May 24, 2007 (unpublished).
- 24 Bobby Tuazon, *Filipino Seafarers and Small Maritime Players: No Protection, No Future A Policy Analysis / Workshop 11 Paper*, International Assembly of Migrants and Refugees (IAMR), Manila, Oct. 28-30, 2008.
- 25 Maragtas S. Amante, "Industrial democracy in the rough seas: The case of Philippine seafarers," Cardiff University and University of the Philippines, Industrial Relations Research Association Proceedings, 2004.
- 26 The amount of remittances estimated by the government does not, however, include money sent door-to-door or brought home directly by returning migrant workers. Thus the total remittances pumped into the Philippine economy could be bigger.
- 27 Engr. Nelson Ramirez, president of the United Seafarers (UFS), interview.
- 28 Edwin dela Cruz, president of the International Seafarers Action Center (ISAC), interview.

- 29 The country's 76 CHEd-accredited maritime schools produce 25,000 (out of 60,000 enrollees).
- 30 Amante, *ibid*.
- 31 Returning seafarers are required to undergo re-training but the courses are mostly redundant and months of retraining eat up their savings. (Author's interview with Filipino seafarers in Amsterdam, April 2007)
- 32 Cited by the International Commission on Shipping (ICONS, 2000).
- 33 Ramirez, interview.
- 34 Ramirez, *ibid*
- 35 Froilan Bacungan and Rene Ofreneo, "The development of labor law and labor market policy in the Philippines," in *Law and Labor Market Regulation in East Asia*, ed. Sean Cooney, Tim Lindsey, Richard Mitchell, and Ying Zhu. London: Routledge, pp. 91-121.
- 36 Amante, "Industrial democracy..."
- 37 The government's current maritime administration functions are thinly spread among 14 bureaus and agencies under several agencies. Aside from MARINA, these bodies include the Maritime Training Council (MTC), DoLE, DoTC, NTC, POEA, PPA, PCG, CHEd, and other agencies.
- 38 Ramirez, *ibid*
- 39 Captain Reynaldo Meliton, retired 4th Engineer who worked 28 years aboard FOCs. Interview October 15, 2009
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Captain Reynaldo Meliton, retired Captain who worked for FOCs in the past 28 years. Interview October 15, 2009

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