

Seafarers' rights

Maritime Labour Convention leaves abandoned seafarers high and dry

Crew remain unprotected as ILO delays debate to 2014



LIZ MCMAHON

THE Maritime Labour Convention fails to address abandoned seafarers and a legal solution must be found that gives crew direct access to compensation, Seafarers' Rights International executive director Deidre Fitzpatrick has warned.

The issue of abandonment is not due to be discussed until the first meeting of the International Labour Organisation after the convention comes into force on August 20, 2013.

Ms Fitzpatrick expected the meeting to take place in the first half of 2014.

"It sounds like a simple problem: seafarers are stranded and need to get home. It is not a big percentage and it is not an epidemic but there are a significant amount in the industry. The very fact that it happens at all is something we need to address."

Although the International Maritime Organization and the ILO established a joint working group to tackle the issue, Ms Fitzpatrick said 10 years of meetings had failed to find a legal solution to abandonment.

She called on the industry to build on existing guidelines that have been static since March 2009.

"It is now a question of timing," she said. "The MLC comes into force in August and, in the first meeting post this, abandonment is one of the issues on the agenda."

This, she said, would be "the big opportunity to find a solution. If this passes I would be surprised if the subject comes on the agenda again for some time".

To date, Ms Fitzpatrick said, there is little recourse, short of arresting the ship, to recover seafarers' unpaid wages.

"If there is no equity in the ship then repatriation has to come from humanitarian grounds," she said.

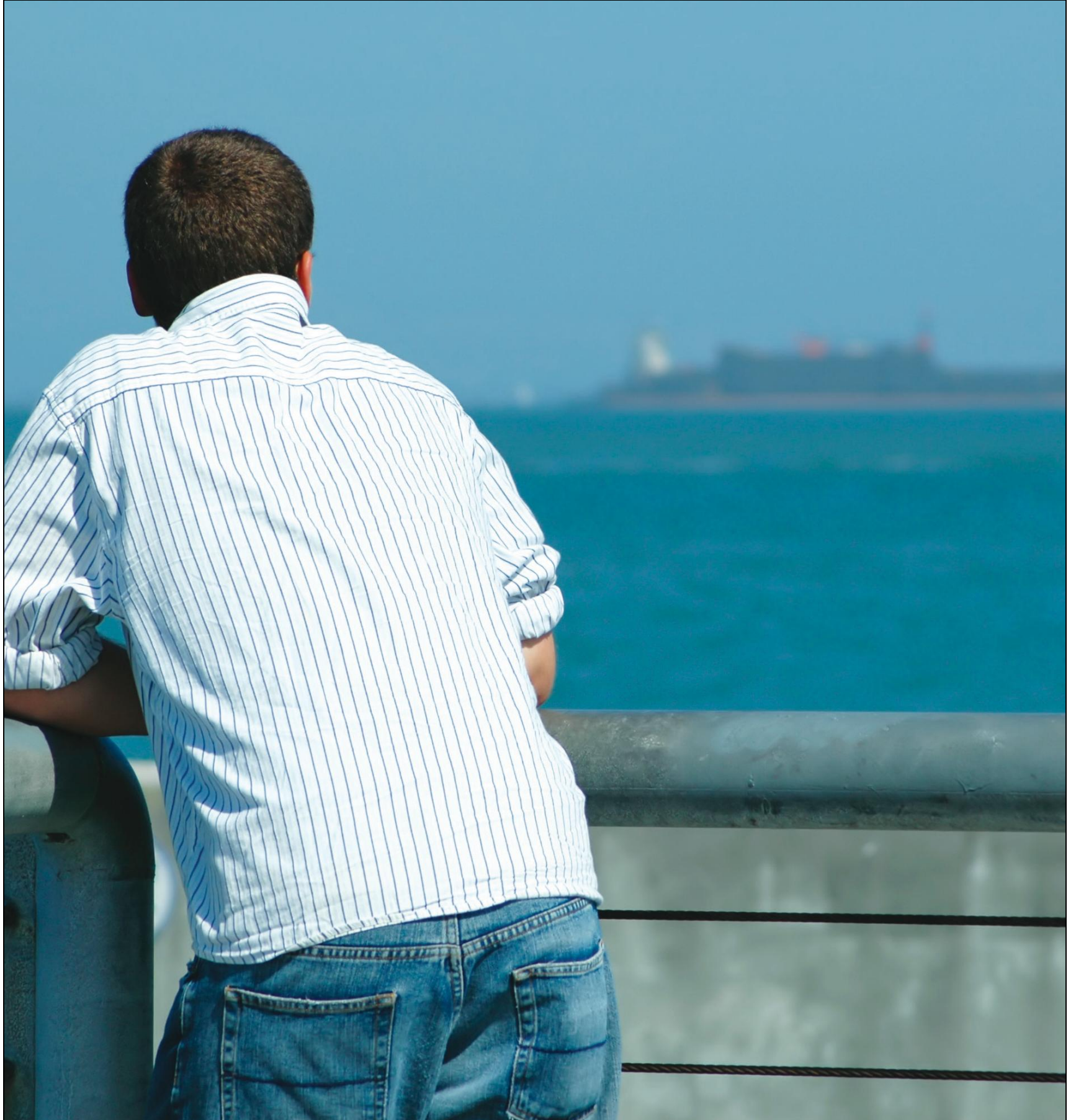
"There is no insurance provision in place. A solution to the problem needs to involve some form of financial security. There should be direct access to a financial instrument that seafarers can call on. It will be extremely interesting to see how the issue develops."

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Deidre Fitzpatrick

Case studies show how extremely difficult circumstances can be for seafarers who are abandoned.

"Many simply don't want to go home without the wages they are owed as they don't want to disappoint their families," Ms Fitzpatrick said. "It can have a big psychological impact and that side is not really visible when



Case studies show how difficult circumstances can be for seafarers who find themselves abandoned.

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people discuss it as a global issue."

One obstacle is a dearth of accurate statistics to show how many seafarers are abandoned each year.

"I have found it shocking how few statistics there are on seafarers at all," she said. "I have looked for criminal charges, those that have been prosecuted or convicted but there is nothing. It is not even really clear how many seafarers there are on board vessels."

The ILO has a database that should record abandonment cases but Ms Fitzpatrick said this relies on people reporting incidents — and that can be sporadic and inconsistent.

"It is not a sustainable argument to say this database reflects the true nature of the problem," she said.

"Given the current financial circumstance, abandonment is likely to increase and industry should not allow this gap to exist where seafarers can be stranded for months on end."

The MLC includes a clause that states that the seafarer is entitled to repatriation but Ms Fitzpatrick said this clause means nothing when a

seafarer finds herself or himself abandoned.

"You can't just tell someone they have the right to do something, you need to explain how they can exercise this right. This is no good to anyone if they can't enforce it," she said.

"This is where insurance can kick in. It is the responsibility of the shipowner but this is the very person who has done a runner and this means someone else has to take responsibility.

"Good shipowners don't abandon their crews so they are therefore not very interested in this subject. Bad shipowners don't come to any meetings on the subject and obviously don't want to talk about it. We need to find a way of convincing the good shipowners to find a solution."

Robert Johnson, managing director of crew-focused insurance provider Crewsure, said he felt the convention fell short of meeting its ideals.

"People fail to appreciate the ILO initiative and how it is directly concerned with welfare and benefits," he said.

"If seafarers have their own policy, they will have someone to ring. If they are the beneficiary of someone else's insurance can you ensure this will work? We don't know the answer to this"

Robert Johnson

He explained the P&I clubs have agreed to repatriate abandoned seafarers if a shipowner is declared insolvent.

"However, clubs provide insurance for shipowners not seafarers personally. There is no doubt that clubs would stand by any commitment they have made but the seafarer is not the insured person.

"What the MLC is striving to achieve is that the seafarer is personally protected by the forthcoming legislation.

"The aim is to find a mechanism to

ensure insurance is given personally to the seafarers while it is paid for by the employers as would happen on shore.

"If seafarers have their own policy, they will have someone to ring. If they are the beneficiary of someone else's insurance can you ensure this will work? We don't know the answer to this."

Another difficulty is the speed with which the MLC is coming into force, Mr Johnson said.

"In reality the UK hasn't ratified the convention yet, let alone enacted it into law," he said.

"Shipowners need to be seen as operating in accordance with MLC as it will act as a ticket to trade but they are asking themselves, have I done everything to comply with this, rather than understanding what seafarers need.

"There is a mismatch between what MLC wants seafarers' care and protection to be and what shipowners can realistically provide before August 2013." ■

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