

## From the Editor's Desk



SILENCE is a source of great strength. — Lao Tzu

We need to find 'GOD', and He cannot be found in noise and restlessness. GOD is the friend of silence. SEE how nature - trees, flowers, grass - grows in silence... We need silence to be able to touch souls. — Mother Teresa

You would agree that it is no exaggeration to conclude that UNCLOS is vital for the safe operation of ships, for environmental and economic sustainability of world trade, and for the continued well-being of the world's population. "ICS Chairman Masimichi Morooka, celebrated the 30th anniversary of the UN Convention on the Law Of The Sea by writing to United Nations Secretary General Ban Ki-moon. On behalf of the world's ship-owners, extended congratulations to the UN and the Division for Ocean Affairs and the Law of the Sea (DOALOS), signing of the United Nations Convention on the Law of the Sea (UNCLOS) at Montego Bay, on 10 December 1982. "The enduring relevance of UNCLOS pays testimony to the vision of those that drew up the text and oversaw its adoption all those years ago. Given that international shipping transports about 90% of world trade, UNCLOS is of great importance." UNCLOS provides the basic legal framework that defines the extent of States' jurisdiction for the implementation of IMO's detailed treaties and regulations for maritime safety and pollution prevention. These IMO Conventions are widely ratified by governments, and genuinely implemented and enforced on a global basis. "The delicate balance of rights and responsibilities between nations as established in UNCLOS is central to the belief of the shipping industry that it is of the utmost importance that this major UN Convention continues to operate in its present form. "Shipping is an inherently global industry—indeed the first truly global industry - and the vital importance of uniform international rules has always been recognised by UN Member States. If different rules concerning ship construction or environmental protection were to apply at different ends of a voyage we would have chaos." Mr Morooka pointed out that, while the principle of global rules for a global industry is universally recognised, the global community faces a perennial challenge to resist attempts by governments to develop national or regional rules at variance to those already agreed internationally. "In many cases, it appears that national or regional political demands for unilateral action are made without a complete knowledge of the governance of shipping by the United Nations, or of the sophisticated legislative mechanisms that regulate international shipping under the auspices of IMO," he said. "As you will be aware, apart from enshrining the principle of global maritime rules, which are vital to our global industry, UNCLOS establishes the right of all nations to freedom of navigation on the high seas and to the right of innocent passage in territorial waters. It also deals with delicate matters such as the right of all ships to use international straits, which is a very sensitive geo-political issue," he said. Importantly, UNCLOS also provides the legal basis that allows UN Member States to repress the scourge of piracy on the high seas, which remains a continuing problem worldwide, not just in waters off the coast of Somalia. Indeed, UNCLOS Articles on piracy have provided the basis for several recent UN Security Council Resolutions, highlighting the continuing importance of the Convention and the need to uphold its principles. The International Chamber of Shipping will continue to encourage those governments that have not yet done so to ratify UNCLOS, in order to maintain the core of the current global maritime regulatory regime which includes Conventions adopted by IMO. Mr Morooka concluded: "It is no exaggeration to conclude that UNCLOS is vital for the safe operation of ships, for environmental and economic sustainability of world trade, and for the continued wellbeing of the world's population."

**The National Union of Seafarers of India (NUSI): Seamen's Union offers to help broke shipping company (Prathiba Shipping)? WHAT IS THE MYSTERY BEHIND SEAMEN'S UNION (NUSI) TO COME FORWARD TO HELP "Prathiba Shipping Co. Ltd"; A PRIVATE SHIPPING COMPANY, while as a Crew Union, they should have in fact, charged the regulatory authorities and Owners of the said Shipping Co. Ltd; for the poor state of affairs. While on the contrary, such an attitude is surprising and seen Illogical Never heard-off, in MARITIME/SHIPPING's HISTORY of India or Overseas. Enlightened Seafarers, ought to think as to why the reality is concealed by suppression of 'unlawful acts'. Self, witnessed the dead bodies of seafarers of the ill fated MT Prathiba Cauvery piled up in the mortuary of Royapettah and Madras General Hospital, witnessing-sight of seafarer's dead-bodies belonging to VESSEL (MT Prathiba Cauvery) GROUNDED AT CHENNAI COAST (\*Besant Nagar).The cry of the close and near, of the dead seafarers at the mortuary, was unbearable to human hearts. \* It was a cold blooded murder, owing to mercilessly certifying sub-standard vessels of the influenced ship-owners. "Lacks Regulatory Compliance". News: Mumbai,Business/Economy,Fr104Jan.2013IANMumbai. As many as 151 sailors,including some from China and Bahrain, remain stranded aboard six ships of Mumbai's beleaguered Prathiba Shipping Company, which has been offered financial assistance by a seamen's union, a top maritime authority said Friday. In the past couple of months, nine oil- tankers belonging to the company have been facing rough weather either in ports, shipyards or on the sea as their statutory and mandatory certificates has expired, the Directorate General of Shipping (DGS) said here. The company's financial constraints have resulted in immense hardships for the crew on board these ships whose salaries and dues remain unpaid. They are demanding that they be rescued. Has now offered financial help to the broke company in view of its sailor-members' plight. The company will repay the money to NUSI after scrapping some of the stranded ships. Of the nine stranded ships, three are in shipyards abroad for repairs while six are in Indian waters, said DGS. In view of the repeated pleas by families of the sailors and NUSI, DGS held an emergency meeting here Thursday and directed the company to take priority steps to provide relief to the stranded crew members. A vessel, M.T. Prathiba Koyana, is presently in Bahrain, arrested for non-payment of dues. However, its entire 34-member crew was deported to India recently at the government's cost which will be recovered from the shipping company, the DGS said. Two vessels, M.T. Prathiba Chandrabhaga and M.T. Prathiba Narmada, are stranded in a Chinese shipyard, stranding the 13 crewmen on it. Because of strict Chinese regulations and non-payment of dues by the ship owners, the process of repatriation of the stranded sailors got delayed, DGS said. M.T. Prathiba Cauvery was repaired and re-floated at Chennai and continues to remain there without paying dues. Another vessel, M.T. Prathiba Warna, is anchored off Chennai and DGS has directed the owners to permit its captain to disembark on compassionate grounds.Two other vessels -- M.T. Prathiba Tapi and M.T. Prathiba Indrayani -- are anchored around 30 nautical miles off Mumbai without food and water for the crew.The DGS and Indian Coast Guard have rushed to help several of the crewmen suffering from food poisoning, fever and other ailments and the entire crew will be rescued beginning Saturday. The DGS and the coast guard also rescued a second engineer from Kerala from M.T. Prathiba Bheema, anchored off Goa, while many more continue to be stranded aboard M.T. Prathiba Cauvery off Vishakhapatnam port. At Thursday's meeting, Prathiba Shipping Company's managing director Sunil Pawar assured that immediate steps would be taken to rescue all the 151 stranded crew members within seven to 10 days. Pawar said he planned to sell M.T. Prathiba Chandrabhaga and M.T. Prathiba Narmada, stranded in China, and scrap M.T. Prathiba Tapi and M.T. Prathiba Warna, and M.T. Prathiba Cauvery after clearing its legal issues with Madras High Court. M.T. Prathiba Neera and M.T. Prathiba Bheema will be re-commissioned for commercial operations while efforts are on to secure the release of M.T. Prathiba Indrayani. Pawar said he would repay the financial assistance provided by NUSI from the proceeds of the sale and scrapping of ships under DGS monitoring. Nearly seven weeks after M T Prathiba Cauvery ran aground during Cyclone Nilam and six crew members killed in an escape bid, the Madras high court has ordered compensation ranging 9 lakh and 24.4 lakh to the families of the deceased sailors. JusticeN Paul Vasanthakumar directed the vessel owner, M/ s Prathiba Shipping Company, Mumbai, to pay a total of 87.45 lakh as compensation to the legal heirs of the six victims. While the family of engineer Anand Mohan will get 24.45 lakh compensation, the kin of Joman Joseph and Krishna C Puthiya Purayil will get 18 lakh each. The families of three others â•" K Niranjan, Khamitkar Raj Ramesh and Rushabh Jadhav " will get 9 lakh each. What a discrimination in compensation amongst ship employees of MT Prathiba Cauvery, as compared to compensation paid to the two fishermen killed by the Italian Marines. When would we be able to achieve a unified policy to see fair and just practice to curtail discrimination and instill equality of status and opportunity, as enshrined in our national constitution.**

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## A CASE STUDY

**Rs. 60 lakhs to kin of sailor who died aboard ship.** *Re-The Times of India, Chennai. Need for re-thinking in lines of humanity for crimes committed to seafarers.* Published Ref: June 2012 Editorial in Marine Waves.

- The duty of judges, that was at one time universally accepted, is to suppress their preconceptions and leanings of the mind and make decisions based solely on the merits of each individual case. It may be thought that, for this reason, the more acutely judges are aware of their own subconscious attitudes the better judges they will be. They will then better be able to overcome their own biases and prejudices and make findings without being influenced by them. Once again, ideal judicial conduct is epitomised by the blindfolded goddess of justice. Hence, more importance to be given to the life lost. An irreparable loss. What action taken to overcome such grievous event? Prosecute/Punish authorities responsible to oversee, than many stakeholders to share the financial compensation offered, to the kins/off-springs.? One should be true to their own heart/conscience.
- It is the essence of justice that judges exercise control and discipline over their own feelings and judge each case on its merits, impartially and neutrally, without regard to personal bias and generalizations than only looking at counsels pleadings. THIS applies in our country also. Ship Surveyor Guilty in Ship Safety Case. Tuesday, May 29, 2012. Miami Man Convicted for Obstruction of Justice and False Statements for Certifying Ships Safe for Sea. HC and SC should also view the negligence of the regulatory/inspection agencies of vessels calling in Indian ports under the Directorate General Shipping, Ministry of Shipping, Govt. of India.
- CRIME against humanity is the highest priority to be looked-into by governance of the people, irrespective of whether by the Central/State Government /Community/ Local/Home administration. Such crimes to be severely dealt without sympathy. Monetary Compensation to the loss of life is not the only answer. Judiciary to view the case, with a wider perspective angle. Causing varied judgements.
- History does not long entrust the care of freedom to the weak or the timid" - Gen Eisenhower. Human working and living conditions on-board are becoming miserable, The regulatory/inspection agencies are blind to serious lapses, includes other sphere of marine working-discipline, whether it is ship's inspection in ports, shipyards, inspection in maritime academies/ colleges/deemed universities etc. All on account of incompetent and dis-interested marine - professionals who have taken-up shore based jobs with dis-regard to Seafarer's Safety, Health and the Environment. Our country 'INDIA' LACKS A UNIFIED POLICY owing to states acting to their whims and fancies, without control of the centre, but for political capital out of it. 'THE CENTRE' to be in total preparedness to meet any eventuality, in the interest of the nation, E.g. Why Lokpal, not enacted in all states of the Indian union? Media should work towards exposing the wrongdoings in the society. Media has power of initiating the change in society for making it better. But, some stray incidents reporting were completely baseless, as with the Directorate General Shipping, of the Ministry of Shipping. This misleads the people, which should be prevented at any cost. Media as a whole is not engaged in such false reporting. Generally, media is good, as Arnav Goswami of TIMES NOW does. Media should not interfere in the judiciary process, but for highlighting all the wrong-doings as feedback for early corrective action. Media is not expected to report as a messenger without discussing the issue with the relevant. Finally, a wrong media is always better than no media. Instead of framing guidelines the judiciary or officials can take action on the erring media. But then the media must have the right to defend. HENCE all human acts to be under check to define the limit of decent reporting. Media is certainly crossing its limit as reported on shipping and maritime reporting. Without trying to verify the full facts, the media comes to conclusions on major issues and strengthen their conclusions by panel discussions with the same set of panellists, the so called 'expert commentators'. It is nothing but fooling and prejudicing the minds of public. Press has a very important role to play. They are supposed to find the factual positions keeping all aspects into consideration before coming to public. Instead they flaunt fragmented documents as evidence and influence the public.
- JUSTICE should not be "just the compensation paid to the Kin of the deceased seafarer", but should seriously matter 'why an innocent seafarer i.e. TS Frank Midson (33) of Kanyakumari District, should fall into the empty cargo -hold and die? \* Negligence on the part of the ship's management on-board and the poor concern of the Shipping Company/ Managers, in not ensuring timely, essential care and maintenance, curtailing essential expenditure. To also name the MMD Surveyor responsible, who passed/approved the vessel(ship)for sea-worthiness. To probe into the case, on humanitarian - grounds for the non-recurrence of such similar accidents or else no remedial action taken, in this 21st century is shameful.
- Blaming the shipping companys and shipmanagers, DGS/MMD alone would not solve the problem. The vessels senior officers and the onboard safety culture should share the responsibility. "Seriously matter' why an innocent seafarer i.e. TS Frank Midson (33) of Kanyakumari District, should fall into the empty cargo -hold and die?" should have been comprehensively investigated and a root cause analysis carried out and preventive measures implemented. A command of the vessel having Masters FG licence and senior officers, having sufficient rich experience and expertise to manage safety on board, they should not cut corners and become victims themselves. Only a thorough investigation will prove that. For that the onus is on the vessel Tech managers / DOC holder / Vessel command and senior staff.