

The Philippines and seafaring labour export: State, non-state and international actors in the assembly and employability of Filipino seafarers

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Abstract

Based on interviews, this article examines the Philippines as a sending state from the perspective of seafaring labour export. It analyses how the outsourcing of seafaring labour and global regulation of standards of seafarer education, training and certification have broadened and deepened the involvement of international actors in Filipino seafaring labour. It situates these developments in two phases of seafaring labour migration, thereby clarifying the role of these international actors and their relationship with state and non-state actors. These international actors have influenced Philippine policy on seafaring labour and employment, are vitally involved in assembling Filipino seafaring labour through their investment in maritime education and training and are determining Filipino seafarers' employability through their inspection of Philippine compliance with the STCW convention. Compliance with this international instrument mobilised the state to reshape the functioning of its agencies to revitalise its capacity as a sending state.

INTRODUCTION

This article clarifies the role played by the Philippine state in labour migration by analysing the employment of Filipino seafarers in merchant shipping. This examination is situated in what I identify as two distinct but nevertheless

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overlapping phases in the export of Filipino seafaring labour for the global maritime industry. Each phase is defined by a priority or goal that is accompanied by a strategy implemented by a set of actors. The first phase was concerned with deploying as many seafarers as possible and it contended with subordinating seafaring labour to shipping capital to make the country friendly to ship owners and employers. The second phase is concerned with keeping the country's status as a recognised supplier of seafaring labour through compliance with international conventions. Both phases are underpinned by a different notion of the employability of Filipino seafarers. In the first, the dominant conceptualisation of this employability is their cost to employers not only in terms of wages but also in the broader sense of the financial risk employers face when contracting their labour. In the second, this employability concerns the quality of education and training of Filipino seafarers, as well as the confidence employers have in the country that has provided their education and issued their certificates. It is tied to the country's ability to demonstrate to external and international institutions that it meets minimum global standards. Given the fragmentation of the country's maritime governance infrastructure, this compliance with a global regulatory framework has caused the Philippine state to undertake, to date, the most significant and necessary reforms in its maritime education, training and certification system because of the threat non-compliance poses to its sea-based labour export.

Delineating the two phases in the employment of Filipino seafarers specifies the role played by the state and other important actors, hence drawing a clearer picture of the relationships and dynamics of power and interests that exist between and among the players involved in sea-based labour migration and that have shaped the development, promotion and employment of Filipino seafaring labour in international merchant shipping. It enables this article to highlight the role of the enforcement of international conventions on the continued ability of the Philippines to supply seafarers to particular labour markets. This article therefore examines how the role of the Philippine state in sea-based labour migration has been shaped by two linked developments: the outsourcing of seafaring labour and the global regulation of standards of education and training for seafarers.

LITERATURE REVIEW: THE PHILIPPINE STATE, OUTSOURCING OF SEAFARING LABOUR AND GLOBAL REGULATION OF MARITIME EDUCATION

Conceptualisations of the role played by sending states in international labour migration (e.g. Adamson & Tsourapas, 2020; Ortiga, 2018; Sadiq & Tsourapas, 2021; Shrestha, 2018) are predominantly, if not exclusively, based on research on the migration of land-based workers. Scholarship on the Philippines has examined how the state has promoted and managed the export of Filipino workers to the world (Parrenas, 2011; Rodriguez, 2010; Tyner, 2004). Although the private sector, especially recruitment agencies, plays a vitally critical role, labour export occurs under the direction and regulation of the state, which has 'created a comprehensive structure of regulation' (Battistella & Asis, 2013: 8). Particularly in sea-based labour migration, how the private sector—which represents and works with/for foreign, international shipping interests—and other non-state actors (such as labour unions that work closely with the private sector and the state) have influenced state policy remains little examined. The second is that there is little (if no) examination of how compliance with international regulation standardising education and training at a global level has shaped the role of the state in labour export. This article addresses both lacunae.

The outsourcing of seafaring labour

The employment of Filipino seafarers in international seafaring became possible with the deregulation of the shipping industry in the 1970s. Suffering from heavy losses due to a slump in the world trade, an overcapacity of shipping and depressed freight market conditions brought about by the economic fallout of the oil crises of 1973 and 1979, shipowners cut their operating and labour costs by registering their vessels with flags of convenience (FOC). Flagging out allowed shipowners to circumvent not only the regulatory frameworks but also the labour and maritime laws

of embedded maritime nations, which, up until the 1970s, considered their ships and their crew as an extension of the nation-state (Stopford, 2008). Flags of convenience allowed shipowners to hire seafarers from the Global South whose wages would be much lower than Global North seafarers' (Alderton & Winchester, 2002). Crewing substitution provided opportunities for the Philippines to supply seafarers. In the early 1970s, the Philippines supplied only one percent of the world's seafaring labour force (Lane et al., 2002 cited in Obando-Rojas et al., 2004). Today, they make up at least about 25 percent of international merchant shipping's global labour force estimated to be 1.65 million seafarers.

The outsourcing of seafaring labour created a global labour market for seafarers, which 'has no nationality restrictions, so that a seafarer of any nationality may be recruited' and has a recruitment that is 'highly organized through extensive global networks linking shipowners, ship managers, crew managers, labour-supply agencies and training institutions' (ILO, 2001: 33). This single global labour market, in turn, had consequences on two aspects of maritime labour. The first is on the standard of seafarer education (Bloor & Sampson, 2009; Sampson, 2004; Sampson & Bloor, 2007). With the link between the nationality of the ship and the nationality of the crew severed, shipowners and employers lost control of the quality and competence of the workers they employed (Bloor et al., 2014: 459; ILO, 2004). Concerned with profit margins and loss of investment on human capital due to poaching by other employers, they were unwilling to invest in the training of the workers they hire. Yet they expected seafarers from new labour-supply countries to be 'ready trained' (Sampson, 2004: 247). Consequently, labour-supply countries bore the cost of educating and training them.

The second aspect shaped by the formation of a global seafaring labour market is the global regulation of standards of education and training (Bloor & Sampson, 2009). Due to the variability in the quality and standard of seafarer education and training, and the risks this posed to life, property and the environment, the International Maritime Organisation (IMO) adopted in 1978 the Standards of Training, Certification and Watchkeeping (STCW) Convention. It promotes the safety of life and property at sea and the protection of the marine environment by laying down the basic and minimum standards of maritime education, training, certification and watch-keeping. Its intention was to raise the standard of maritime education and training in labour-supply countries that were at that time thought to be providing poor quality of training (Sampson, 2004: 252).

Wanting to capitalise on the employment opportunities but without the resources to invest in developing and building a strong maritime education infrastructure (Sampson, 2004), the Philippines left maritime education and training largely in the hands of the private sector, which led to the proliferation of substandard maritime higher education institutions (MHEIs). Their proliferation reveals the country's problems in complying with the STCW convention, which it signed in 1984. In 1988, there were 57 MHEIs and by 1994, there were almost 120 such MHEIs. The country's 'free enterprise' policy that 'underlay the liberal grant of permits for programs of higher education institutions' (CHED, 2017: 1) was at odds with standardisation, which was the goal of the Convention. The policy also left the regulation of standards to market forces, that is, that 'market demand [would] determine the sustainability or demise of programs and HEIs' (CHED, 2017: 2).

The global regulation of maritime education

The enforcement of this global governance framework for education and training standards was problematic and there are several reasons for this. One, as a highly globalised industry, shipping has a polycentric governance structure, which Black (2008: 138) defines as that 'in which the state is not the sole locus of authority, or indeed in which it plays no role at all [and one] marked by fragmentation, complexity and interdependence between actors, in which state actors are both regulators and regulated, and their boundaries are marked by the issues or problems they are concerned with, rather than necessarily by a common solution'. This polycentricity makes governance multilevel and overlapping in character (Bloor et al., 2014: 458). The IMO, the only UN agency where corporate entities can represent states, has come under criticism over the influence that the shipping industry and trade organisations have on it

(Baumler et al., 2021; Transparency International, 2018). Its governance is also characterised by the unequal influence of states with a few countries (sometimes affiliated with industry interests) dominating, if not capturing, the development of regulations (Transparency International, 2018). Certain states, such as developed countries, large Flag States, major shipbuilding nations and trade organisations, exercise a major influence on Maritime Safety Committee (MSC) and Human Element, Training and Watchkeeping (HTW) Subcommittee debates (Baumler et al., 2021; Transparency International, 2018). It was leading figures of the shipping industry, who had long known of the 'wide variation in standards required for certificates of competency, ranging from high to dangerously low' (ILO, 2004: 82) who pushed the IMO to revise the STCW convention of 1978, resulting in the STCW 1995 (see ILO, 2004: 81–88). The need to get maritime education and training standards for seafarers from new labour-supply countries to meet minimum global standards was intensified by the global skilled labour shortage that maritime shipping was already experiencing in the early 1990s (Lillie, 2006: 97). The International Transport Workers Federation (ITF) joined the International Shipping Federation (ISF) in this campaign, especially in the addition of the enforcement mechanism known as the 'White List' (Lillie, 2006: 98).

Two, the convention was weakly enforced (Sampson & Bloor, 2007). Sampson (2004: 250) noted that there were concerns over 'a potential conflict between IMO objectives relating to standards in education and training, and a need to protect the industry's labour supply'. Three, the mode of regulation used by the IMO was ineffectual: a paper-based assessment done through enforced self-regulation (Bloor & Sampson, 2009). The adoption of the STCW 95 'was intended to homogenise standards of education and training across the world by demanding that party states supply detailed written evidence of compliance' (Sampson, 2004: 252). STCW 95 directed the IMO to publish, by 2000, a whitelist of states deemed compliant, and which could therefore continue to supply seafarers to the maritime industry. In relation to number two above, the exclusion of the Philippines from this whitelist was 'unthinkable' (Sampson, 2004: 251) because of its critical importance as a labour-supply country for the maritime industry: the shipping industry would not survive the loss of its biggest supplier of seafarers. The issue of the country's non-compliance with the STCW convention was established by a study commissioned by the IMO which found widespread use of fake certificates in labour-supply countries (Obando-Rojas et al., 2001). The Philippines was found to be the worst offender: of 12,703 detections of fraudulent certificates, 11,808 were detected by the Philippines (Obando-Rojas et al., 2004). Even so, the Philippines remained on the whitelist. Fourth, there is a 'training double-bind' whereby the Philippines, whose maritime administration and education infrastructure were woefully inadequate, is expected by shipowners and employers to raise the standards of training provision by using more rigorous assessment methods but is then also expected to quickly supply huge numbers of seafarers in a just-in-time manner thus putting pressure on it to adopt a licensing or training assessment method that can be quickly administered (Bloor et al., 2014: 459). At the same time, the Philippines has an economic motivation to do so: being able to supply seafarers keeps remittances flowing (Sampson et al., 2011).

There are other Philippine context-specific reasons why the country is not able to comply with the Convention. Bloor and Sampson (2009) have examined how crewing agencies drive training standards downward. Sampson (2003: 51) identified persistent economic inequalities between maritime nations as 'the greatest barrier to the improvement in levels of educational provision'. Finally, 'distorting processes of political influence within the regulatory system' (Bloor & Sampson, 2009: 722) and the regulatory authority giving in to pleas for consideration or flexibility (*napapakiusapan*) (see Bloor & Sampson, 2009: 722) have led to accommodations that have compromised the country's compliance with the STCW. Global governance, as Bloor et al. (2014: 459) aptly put it, was "undermined by 'local regulatory character'."

Two developments led to a shift in the Philippines' response to standards of maritime education and training and in shipping employers investing in the education and training of future and existing seafarers. First, in 2000, the shipping industry was predicted to face a global shortage of senior officers (captain, chief mate, chief engineer, first engineer) of about 16,000. The report also predicted that this shortage could reach 46,000 by 2010 (ISF/BIMCO 2000). (This report follows on the shortage already being felt in the early 1990s). The actual shortage in 2010 was 27,000. The world merchant fleet still faces a shortage of 16,500 officers (BIMCO/ICS, 2015). The second issue

concerns the inspection undertaken by the European Commission's European Maritime Safety Agency (EMSA) of the country's compliance with the STCW convention. These two issues became entwined. When EMSA first inspected the country in 2006, it identified 216 serious and fundamental problems in the country's maritime education, training and certification system. These failings brought in the threat of the removal of the Philippines from EC's whitelist of labour-supply countries, those countries compliant with the STCW Convention and, hence, the withdrawal of recognition of the certificates of competence (CoC) of Filipino seafarer officers working on European Union-owned vessels. This would make them unemployable on EU-owned ships, which would worsen the seafaring labour shortage.

Conceptualising the Philippines as a sending state through seafaring labour export

Compliance with the STCW convention highlights three important aspects of the Philippines as a sending state, which reveal the state as disaggregated 'into a multilevel organisation of distinct component units' (Fitzgerald, 2006: 260). One, the Philippines' ratification of IMO conventions puts it under a legal obligation to effectively enforce those to which it is a State party. Two, as a State party to these conventions, it becomes subject to governance regimes. As my discussion above has shown, these regimes can be both international (IMO) and regional (European Commission). In other words, while the government, through the POEA, exercises regulatory authority over the private sector, it is itself a *regulated authority*—that is, it is itself subject to regulation—that must demonstrate compliance with international conventions. As I will show below, as a state dependent on being able to supply labour, the Philippines agrees to inspection regimes to verify its compliance. However, even as a state that needs the recognition of external bodies, such as the European Commission, to keep its status as a labour-supply country, the Philippines has leveraged its being the global maritime industry's biggest labour supplier to avoid outright blacklisting and instead get plenty of opportunities to implement reforms to meet minimum compliance standards. Three, emerging from its efforts to show effective enforcement of the STCW Convention especially from 2006 is a clear delineation of (1) the functions state agencies perform in respect of seafaring labour export, and (2) those functions performed by private sector, non-governmental and international corporate (shipping capital-associated) actors.

The POEA remains the state agency regulating the deployment of Filipino seafarers through enforcing the Standard Employment Contract (SEC), which regulates the terms and conditions of their employment. The Maritime Industry Authority (MARINA), working closely with the Commission on Higher Education (CHED) has full responsibility over STCW-related functions, namely the education, training and certification of Filipino seafarers. It gives it regulatory authority over MHEIs, training centres and assessment centres. International shipping employers and associations through their manning agencies, and foreign seafarer unions are working closely with maritime higher education institutions (MHEIs) to supply the global maritime industry with the seafaring labour it requires, placing educational institutions as also being central to labour export (Ortiga, 2018). International shipowners' associations specifically the European Commission Shipowners' Association (ECSA) are helping the Philippines to stay in the EU's whitelist of labour-supply countries.

In highlighting the role of compliance with international conventions on the Philippines as a sending state, it might be helpful to use the concept of 'regulatory infrastructure' within the broader concept of migration infrastructure, 'the systematically interlinked technologies, institutions and actors that facilitate and condition mobility' (Xiang & Lindquist, 2014: 122). Regulatory infrastructure refers to the 'state apparatus and procedures for documentation, licensing, training and other purposes' (Xiang & Lindquist, 2014: 124). However, it is necessary to expand its coverage to include the implementation and enforcement of international conventions as constitutive of the ability of the Philippines to supply seafaring labour internationally. This legal obligation both inextricably bounds up Philippine maritime education and training with, and anchors its seafaring labour export to, the global maritime industry. It places the country in matrices of relations where national, supranational and global institutions, as well as multinational corporate actors compete and cooperate. Regulation is thus not only undertaken by a state or between states. It becomes multilateral and multilevel.

This regulatory infrastructure is linked to the commercial infrastructure (recruitment intermediaries) (Xiang & Lindquist, 2014). As I will show below, the interaction between these two dimensions of the migration infrastructure vitally shapes the delineation of functions and the interdependence of actors—despite their conflicting interests—that underpin the workings of the Philippines as a sending state. One manifestation of this interaction or collaboration is in the Philippine state's dependence on the private sector to perform some of its regulatory functions. As Bloor and Sampson (2009: 723) noted, MARINA was 'heavily dependent for examining personnel on local training establishments' and 'heavily dependent for auditing personnel on local shipping interests, whose activities they cannot closely control'. There thus emerges what amounts to a strategic partnership between the Philippine state and the private sector, which is designed to achieve 'greater levels of [capital] accumulation' for both sectors (Tyner, 2000: 137). The combination of state agencies (such as POEA and MARINA), non-state actors (such as unions) and private sector actors (such as the manning industry and shipping associations) and other actors and institutions form a significant plank of the Philippines as a labour-sending state. There are instances, however, when others advance their interests to the detriment of Filipino seafarers, an advancement that exceeds strategic partnership. As I will show, when private sector actors succeed in making their interests appear and accepted as public interests, in so much as they get codified as legislation and case law, instances of regulatory capture could be said to happen. Regulatory capture 'is the result or process by which regulation, in law or application, is consistently or repeatedly directed away from the public interest and toward the interests of the regulated industry, by the intent and action of the industry itself' (Carpenter & Moss, 2014: 13).

METHOD

This article draws on 43 semi-structured interviews, conducted from 2016 to 2018, which aimed to get the perspective of different actors involved in various aspects of the education, training, employment and welfare of Filipino seafarers, and in the administration and regulation of Philippine compliance with the STCW Convention (Table 1). The

TABLE 1 Information on research participants

Organisation/sector	Role of interviewees	Number
Maritime administration	Chief, division head, deputy division head	3
Higher education administration	Commissioner	1
Philippine Overseas Employment Administration	Staff, sea-based labour division	1
Philippine Congress	Seafarer sectoral representative	1
European Maritime Safety Agency	Division head	1
Maritime higher education institution	President, dean, director, division head	11
Ship management company with crewing department	President, general manager, department/agency manager	5
Crewing agency	Fleet manager, crewing officer, training officer	7
Shipowner's representative	Representative	1
Manning agency association	President, management staff	3
Seafarer union	President	1
Seafarer NGO, welfare/advocacy organisation	Director, deputy head, former head	3
Cadet training sponsorship programme	Head, training officer	2
Training centre	Management/division head	1
Philippine maritime legal community	Maritime lawyer	1
Technical and vocational education	Head of programme	1
TOTAL		43

selection of which sectors to include was purposeful. I targeted interviewees for the role they played: maritime authority and education officials, maritime safety agency officials, MHEI presidents and other officials, shipping management company and manning agency officials, crewing and training officers. Other actors with an interest in seafaring such as NGO and seafarer union presidents were also interviewed. Six of these interviews were conducted in Europe.

In addition to participants coming from different sectors, they also came from different types of organisations within those sectors, which provided perspectives helpful in understanding the situation maritime education and seafaring labour were in. For example, the four MHEIs in Luzon have different funding sources (one is state-funded, the rest are private), two have strong links with manning agencies/shipping companies and shipping associations ensuring their students' sponsorships or cadetships while the other two have few or no links. The four MHEIs in the Visayas region were all privately owned, three have large numbers of their students sponsored by shipping associations and one with few or no links with manning agencies. Philippine manning industry informants, all based in Manila and accessed through common friends, are from agencies or companies with varying links to shipowners/employers and shipping associations. Two did not have any sponsorship or cadetship agreements with any MHEIs, two have cadetship programmes and one has partnered with a university to offer a maritime education programme.

All interviews were transcribed and coded for analysis. In my account of the first phase of sea-based labour migration, I combine interview data with the literature to frame and develop my arguments within a broader narrative of Filipino seafaring labour.

DISCUSSION AND ANALYSIS

The two phases in seafaring labour export earlier identified, which highlights the role played by various actors organise the discussion here. Although what distinguishes each phase is the overall thrust of labour export in each phase, there are overlaps between the two especially in respect of the strategies associated with each. So although making Filipino seafarers cheap characterises phase 1, it is also a vital strategy present in phase 2, where efforts to keep Filipino seafaring labour costs low have continued.

Phase 1—Deployment: The Philippines as crewing capital of the world

As I have synthesised in Galam (2018a), the Philippines becoming the merchant fleet's biggest supplier of seafarers was achieved through two major strategies, each led by different actors. The first is labour brokering by the state, led by the POEA. The second strategy is making the country friendly to shipping capital and was implemented through a discourse of maintaining the competitiveness of Filipino seafarers. Led by the manning industry, composed of agencies that recruit and supply seafarers to ship operators around the world, it aimed to subsume labour under capital. Through both the active participation of the POEA and the effective lobbying of the manning industry and a powerful union, state policy particularly in respect of the deployment of seafarers and their status as workers came to be significantly shaped by, and cohere with, the interests of shipowners and employers.

Labour brokering (Rodriguez, 2010) took the form of an aggressive drive to maintain and strengthen the Philippines' relationship with maritime countries whose ships employ Filipino seafarers. It also included seeking new markets for Filipino seafarers. Here, the POEA enlisted the active involvement of crewing agencies, which were required not only to deploy at least 50 seafarers (a precondition of their permit to operate) but also to scout for more shipowners to employ Filipino seafarers (Galam, 2018a). Niching and keeping the wages of seafarers low complemented this aggressive labour brokerage. In the past, the segmented character of the seafaring labour force helped determine how the Philippines supplied seafarers to the global maritime industry. Senior officers would come from the same country as the shipowners. As Swift (2010: 69) noted, Filipinos fill in only 40 percent and 14 percent, respectively, of senior officer positions in Japanese and Greek ships while they occupy most of the lower-level rating

positions. Due to this racial segmentation that determined the market for Filipino seafarers, the Philippines pursued labour niching to dominate the rating position (McKay, 2007). However, senior officer positions have become more open to Filipinos due to the labour shortage discussed earlier and the cost of employing seafarer officers from traditional maritime nations. The BIMCO/ICS Seafarer Workforce Report 2021 shows that the Philippines is now the biggest source of both ratings and officers (UNCTAD, 2021).

The low cost of Filipino seafaring labour, and maintaining its cheapness, has been an important consideration in the promotion of Filipino seafarers to employers. All manning agency owners and presidents and ship management company directors and presidents I interviewed in Manila expressed concern over the cost of Filipino seafarers getting higher. The manning industry, as a company president said, 'is worried that labour will go to other countries like Vietnam or Indonesia'. This concern for Filipino seafarers becoming less competitive has vitally shaped decisions taken by state and private sector actors to regulate the cost of Filipino seafaring labour. There has been, as late as the early 2000s, a concerted and consultative effort among the government (represented by the POEA), the private sector represented by the manning industry and the seafarers' union represented by Associated Marine Officers and Seamen's Union of the Philippines (AMOSUP), the biggest seafarer union in the world, to keep Filipino seafaring labour cheap(ened). Gregorio Oca, then president of AMOSUP, froze a scheduled increase of US\$50 in the salary of able seamen (AB). In 2003, the basic minimum wage for AB indicated in the POEA-Standard Employment Contract (SEC) for seafarers, was \$50 less than ILO's recommendation of US\$435. Oca argued that the increase threatened Filipino seafarers' long-term employability by pricing them out of the labour market (Amante, 2004: 87). The POEA, responsible for enforcing the SEC for seafarers, delayed implementing several years the wage recommendations set by the ILO (McKay, 2007: 71).¹ The POEA's deliberate strategy of setting Filipino seafarers' rate just below the ILO minimum and significantly lower than ITF rates (Fink, 2011: 185) to maintain their competitive advantage leads to the second strategy, which helped position the country as a global maritime industry's preferred source of workers.

The manning industry, comprised of more than 400 agencies that represent shipowners' interests, has been successful in making the country friendly to shipping capital. This strategy goes beyond keeping wages low. Through its lobbying, it has shaped the legal (judicial) and legislative infrastructure of the country, translating into law or state policy the interests of shipowners or employers. In March 2000, the Philippine Supreme Court ruled that Filipino seafarers were regular employees entitled to security of tenure, minimum social security benefits and other rights as provided for in the Philippine Labour Code (Dacanay & Walters, 2011; Pia, 2017). The Filipino Association of Mariners Employment (FAME), the country's largest manning association whose member agencies account for 30 percent of the manning industry and 75 percent of annual seafarer deployment, saw how the manning industry would be negatively affected by it. It filed a motion for reconsideration in intervention, which, according to the president of an NGO working for seafarer rights and welfare, 'helped overturn the court's verdict'. In July 2002, the Supreme Court reversed its own decision, thus declaring Filipino seafarers to be contractual employees (Dacanay, *in press*). The manning industry avoided the financial implications of seafarers having legal access to rights and benefits as regular employees, which made the financial cost of their employment, not just their wages, unattractive to shipowners and employers. It could be argued that the manning industry linked the issue to the employability of Filipino seafarers.

Another area that shipowners and manning agencies consider as potentially driving business and employment away is crew claims for work-related personal injury or death (Richter, 2016). As discussed in Galam (2018a), Filipino seafarers already have a considerably more limited legal recourse to pursue claims due to the Revised POEA-SEC, first adopted in 2000 and finally adopted in full on 5 June 2002 (Terry, 2009). The president of a seafarer-focused NGO noted that the new contract also shifts, from the employer to the seafarer (or their families), the burden of proof that any injury or death is work-related. Seafarer groups see it as 'a major capitulation to ship-owning interests' (Sornn-Friese & Hansen, 2012: 212). It was not, however, adequate for the manning industry, which vigorously lobbied for the passing of a law that would limit crew claims.

In November 2015, Republic Act 10706 or the Seafarer Protection Act was passed by the Philippine Congress to curb ambulance chasing by predatory law firms or lawyers who want to profit from the compensation claims of seafarers or their families by charging claimants exorbitant fees, including legal fees amounting to between 30 and

60 percent of any compensation awarded to seafarers or their heirs. The new law, which took effect in May 2016, makes it much less lucrative for these lawyers to represent seafarers as it imposes a 10-percent limit on what lawyers can claim or charge on the total compensation or benefit seafarers or their heirs are awarded. It also criminalises ambulance chasing, with a corresponding monetary penalty or prison sentence for those found guilty (Galam, 2018a). Despite its name, the Seafarer Protection Act, according to a maritime lawyer, is 'anti-seafarer and hides behind seafarers to protect and advance the interests of shipowners and employers'. A maritime NGO official saw a conflict of interest at play, noting that the law's principal author 'used to be the legal counsel of one of the country's biggest shipping management companies'.

To remain the global maritime industry's prime source of seafaring labour, the Philippine government has shown a willingness to remove barriers to the smooth operation of shipping capital, subordinating the interests of seafarers to those of shipowners. Scholars have noted labour-sending and receiving states being trapped in a 'liberal paradox' (Acacio, 2011; Hollifield, 2004) whereby the promotion of labour emigration entails not only the marketing of overseas Filipino workers but also the institutionalisation of their welfare protections overseas (Acacio, 2011: 51). Although the POEA-SEC, on paper, protects the occupational health and safety, and the rights of Filipino seafarers while onboard their ship, it has denied them certain social rights in the Philippines and limited the avenues to the legal protection of their rights by making Philippine courts the only venue they can lodge, for example, tort claims. In other words, they could no longer file claims elsewhere, for example, in the USA, where they might get more generous compensations (Dacanay & Walters, 2011; Pia, 2017; Terry, 2009).

The promotion of Filipino seafaring labour is not just the work of the POEA as the lead agency of the state. Promoting and maintaining the country as the world's crew capital has been a collaborative endeavour among the government, the manning industry and the seafarer union, AMOSUP. It is also clear that the lead actor here is the manning industry, which, according to a shipping company president, is 'overregulated by the POEA'. Despite it being so, it has succeeded in translating the interests of shipowners and employers into national interests—the continued employability, or in another sense, *marketability*, of Filipino seafarers depends on making them cheap.

Phase 2—Meeting global education standards and market demand for officer seafarers

Phase 2 of the export of Filipino seafaring labour spotlights another employability issue Filipino seafarers are facing, one that is tied to the country's compliance with the STCW convention. This section first looks at how the Philippines (and other actors) responded to the threat of EC delisting; and second, at private sector response to concerns over the quality of education and training provided to (future) Filipino seafarers.

Response to EMSA inspection of Philippine compliance with STCW convention

Since the first EMSA inspection in 2006, several more were done—in 2010, 2012, 2013, 2014, 2017 and 2020—each time finding the country not having addressed fully all the areas of concern identified by each inspection. The significance of the inspections and their consequences on Filipino seafaring labour and the Philippine economy did not seem to be appreciated and taken seriously, at least initially, by the maritime sector. Two manning agency owners-presidents speculated that the EMSA inspection was nothing really to do with the standards of maritime education and training in the Philippines. One saw it as 'EU's way of bringing seafaring jobs back to the EU to help provide employment to its member states such as Poland, which is also a source of seafarers'. The other saw it as an interference. A shipowner's representative saw it as unnecessary and the threat to Filipino seafarers' employment aboard EU-owned ships exaggerated. As he put it, 'regardless of the outcome, Greek ships will continue to hire Filipino seafarers'.

The Philippine government itself was slow to act on the findings of the EMSA inspections. It was only about 5 or 6 years after the first inspection in 2006 that real measures were taken to address them. The first of these actions

was the creation of a single maritime authority to administer the STCW Convention. A MARINA informant noted that a major concern flagged up by the first EMSA inspection was the absence of a 'single authority to administer Philippine compliance with the STCW Convention'. The Maritime Training Council (MTC) was created in 1984, when the Convention came into force, to take charge of this responsibility. However, it consisted of eleven agencies with different mandates that in some cases overlapped. With no single agency in charge, oversight was impossible leading to a fragmented implementation of the Convention. In 2012, President Benigno Aquino signed Executive Order No.75 transferring the functions of the MTC to the Maritime Industry Authority (MARINA), one of the eleven original agencies that composed MTC. However, five MTC agencies had legally mandated STCW functions that EO75 could not supersede and which only another law could. In 2014, Republic Act 10635 was signed into law, designating MARINA as the single maritime administration responsible for the implementation of the STCW convention.

As a result of the EMSA inspections, MARINA, together with Commission on Higher Education (CHED), has implemented a raft of policies, standards and guidelines to ensure that maritime education provision meets the competencies prescribed by the STCW Convention. These measures to address problems in quality and standards have had significant consequences. There has been a notable fall in the number of students taking maritime education. From 2009 to 2018, annual enrolment averaged 124,000 students. In 2017 enrolment numbered 82,205, down from 119,387 in 2016 (CHED, 2020). This dramatic fall is a result of the reduction in the number of maritime schools. As of July 2019, only 60 MHEIs were accredited by the CHED and MARINA to offer a BS Maritime Transportation programme while only 51 were accredited to offer a BS Marine Engineering programme (MARINA, 2019). A MARINA informant also credited this reduction to the implementation of 'a carrying capacity policy that controlled student enrolment by determining how many students an MHEI can accept based on their resources, facilities and equipment'. Despite these improvements, however, a CHED official noted in 2017 that 'the pace of the implementation of reforms has been hampered by legal action taken by MHEIs that faced closure or to circumvent CHED decisions' and that the 'reforms are not enough... it's putting the country at risk of failing the EMSA inspection'.

The official's worries notwithstanding, the Philippines has received vital help from European Community shipowners who have lobbied for the Philippines to stay in the EU whitelist. Patrick Verhoeven, Secretary General of the European Community Shipowners' Association (ECSA), made clear this involvement:

as ECSA we will continue our role as an 'honest broker' between the Philippine administration and the European Commission. Together, we are undertaking all efforts to safeguard the EU recognition of the Philippines under the STCW convention.

(ECSA, 2014)

The ECSA has acted so because it recognises the critical importance of the Philippines as a labour supplier. That the European Commission gave the Philippines many opportunities over a 15-year period to address its failings suggests that it also considered the country's role in providing seafarers for EU-registered vessels, which, measured in gross tonnage (gt), represent 41 percent of the world fleet (ECSA 2006 cited in Sornn-Friese & Hansen, 2012). In 2017, a total of 30,615 Filipino seafarer officers worked on European-registered ships (EMSA, 2020).

Shipowners and employers investing in education and career development of Filipino seafarers

Aside from lobbying for the Philippines, international shipowners and employers are actively involved in assembling a skilled labour force: educating, training and skilling them. Both as a response to the predicted global labour shortage and the inadequacies in the education and training of Filipino seafarers, to ensure they have access to the highly trained and competent workers they require, these shipowners and employers have designed this seafarer development process to occur from school to ship then beyond. Their involvement takes various forms, from sponsorship and cadetship programmes to building their own maritime academies.

They have established sponsorship programmes with several of the best MHEIs. This sponsorship provides financial support to students, from tuition fees to monthly stipends, for the first 2 years of their education. In their third year, these students will be provided with a ship to undertake their one-year cadetship during which they will receive a US\$ 250–500 monthly allowance. This money will pay for the fourth and final year of their maritime education. Upon graduation, students will work for 5 years onboard ships owned by their sponsors. A training officer estimated that about 1110 students are sponsored every year. The International Maritime Employers Committee (IMEC), which began its sponsorship programme in 1998, annually sponsors 250 students who all go to the Maritime Academy of Asia and the Pacific (MAAP). Aside from this sponsorship programme, there are cadetship programmes that provide no financial assistance but guarantee students a ship to undertake their cadetship training.

These sponsorship schemes, however, have created an unintended segmented school structure. To guarantee that their future seafarers are given the best preparation available in the country, sponsors provide for their sponsored cadets school buildings with air-conditioning; dormitories and other facilities; simulation and other equipment; and library and computer resources that unsponsored students are not then allowed to use. According to interviewees, in cases where MHEIs have sponsored students, the benefactors can 'ask the school to put them in a different curriculum structure' (2 + 1 + 1) from that followed by unsponsored ones (3 + 1). This segmentation undermines standardisation, which is the very idea (and ideal) of the STCW Convention (CHED, 2017). Unsponsored students become second-class students making do with what their school could provide them. They are also the ones who struggle the most in getting aboard a ship for their one-year cadetship training, with many of them having to work for free for manning agencies in exchange for a future placement (Galam, 2018b, 2019).

Shipowners and their partner manning agencies have also implemented a career development program, which, according to training officers, enables their seafarers to become senior officers (e.g. captain) within 8 years of finishing their degree. Presidents of ship management companies/manning agencies said that they now also provide veteran seafarers with free in-house courses and trainings as part of their competence and skilling programme.

A more radical intervention done by international shipping companies is building their own MHEIs. The Japanese shipping company Nippon Yusen Kaisha (NYK) Line established in 2007 the NYK-TDG Maritime Academy (NTMA), which aims to produce competent merchant marine officers for the NYK Group. To enable students from poor families to study in NTMA, the school offers a Study Now, Pay Later scheme that covers tuition, board and lodging fees and miscellaneous expenses. Students will pay back through salary deduction once they are employed aboard an NYK ship. NTMA is following the lead of MAAP, established in 1998 by AMOSUP with the support of powerful international maritime institutions and organisations. It has 40 global shipping and maritime sector sponsors and its board is composed of representatives from some of the biggest maritime and manning industry players. Manning agency owners and the president of a manning agency association I interviewed questioned the establishment of schools owned by shipping companies during the period 1995 to 2018 when there was a moratorium on the granting of authorization to establish new MHEIs (CHED, 2017). Their establishment points to the influence exercised by these private sector, non-state (AMOSUP) and international actors on Philippine agencies with regulatory authorities, namely MARINA and CHED.

From the above discussion, two processes could be said to have shaped the Philippines as a seafaring labour-sending state: *regulatory capture*, which characterises the first phase of seafaring labour export, and *regulatory embedding*, which characterises the dominant preoccupation of the country in the second phase. They help synthesise the role international actors have played in Filipino seafaring labour export and the relationship they have with Philippine state and non-state actors. They also correspond to two developments that arose from the creation of a global seafaring labour market.

As I mentioned in previous sections, a regulatory capture (Carpenter & Moss, 2014) may be said to have occurred whereby the interests of shipping capital, represented by and including the manning industry, have, effectively, shaped Philippine laws both through legislation and the legal system. The growth of the Philippine manning industry is linked to the emergence and growth in the importance of crewing agencies or ship management companies in the global maritime industry, which occurred because of the globalisation of the seafaring labour market (Sornn-Friese

& Hansen, 2012). As the Philippines became a major source of cheap labour, the manning industry grew in importance and with it came increased influence to shape Filipino seafaring labour export, specifically the conditions of employment of Filipino seafarers. In Phase 1 of Filipino seafaring labour export, the manning industry succeeded in reducing the social and legal rights of Filipino seafarers (Dacanay & Walters, 2011) to make them more employable. Acting for shipowners and shipping companies, it has effectively used the state (POEA, Congress, Supreme Court) to advance its interests. It was assisted by another non-state actor, AMOSUP, a seafarer union, in promoting Filipino labour by devaluing it.

The EMSA inspection of Philippine maritime education, training and certification system firmly embedded the country in a regulatory landscape that required it to take its international obligations seriously and perform them fully. The country's commitment to the STCW convention, which has functioned as the regulatory framework for the global standardisation of maritime education and training, places the country in relationships with external regional and international institutions, which have the authority to sanction it for non-compliance, with consequences on its ability to supply seafarers to ocean-going vessels. Prior to 2006, the Philippines showed paper-based compliance with the IMO. The EMSA inspections highlighted that the Convention allowed the involvement of multiple parties: a regional body, the European Commission, which is independent of the IMO, could, through provisions of the Convention itself, cause the Philippines to take action to demonstrate it is complying with the Convention. Whereas IMO's 'enforced self-regulation', with the regulated country submitting written evidence of its compliance, has been described as leading to paper compliance rather than substantive compliance (Bloor et al., 2014: 465), EMSA's inspection compelled the Philippines to finally take serious action with its STCW compliance. Traces of regulatory capture persist in the second phase of seafaring labour export as evidenced by the establishment of shipping company-owned or sponsored maritime schools even with an existing moratorium on establishing new schools. These schools, together with student sponsorships, ensure companies have access to competent workers.

CONCLUSION

International actors and various configurations of relationships between them and local-national actors are shaping the ability of the Philippine state to produce and supply seafarers for the global maritime industry. The level of involvement of the private sector (the manning industry); a Filipino seafarer union; and international shipping employers, associations and unions is unseen in land-based migration such as nursing (Ortiga, 2018). Studies that have looked at the role of private recruitment agencies in Philippine labour migration (Acacio, 2011; Guevarra, 2010) have noted none of this participation in the education and training of Filipino migrant workers. The EMSA inspections point to a global regulation or governance that has a multilevel, polycentric character (Bloor et al., 2014). It spotlights the national, regional and international institutions, as well as state and non-state actors (which are local, national, sectoral, regional and international) involved or that become implicated in this governance structure and in ensuring the Philippines stays in the EC whitelist. The country has strengthened its compliance infrastructure to protect and ensure the employability of Filipino seafarers. At the same time, the two processes and developments discussed above have broadened and deepened the scope of the involvement of international actors in Filipino seafaring labour.

The Philippines' response to the EMSA findings and European Commission Assessment Reports (ECAR) reveals two things about the Philippines as a labour-sending state. First, the whole state machinery mobilised to fulfil it. The government's executive and legislative branches provided legal infrastructure. The Philippine Congress passed a national legislation designating MARINA as the single maritime authority with jurisdiction over the enforcement of the STCW convention. The executive branch further strengthened MARINA with an executive order. Second, two state agencies with regulatory authorities, POEA and MARINA, oversee seafaring-related labour migration, each with a distinct function. POEA oversees the promotion, management and regulation of Filipino seafarers' employment. MARINA, working closely with CHED, must ensure the country's maritime education, training and certification system meets STCW standards, the sine qua non to seafaring labour export. The Philippines must fulfil its

commitment to this international convention to produce seafarers fit-for-purpose for the global maritime industry. Compliance ensures the employability of Filipino seafarers, which does not only pertain to an individual seafarer's possession of the appropriate level of education and training. This employability pertains as importantly to the confidence that shipowners, employers, international organisations and institutions, and regional political blocs have in the country. It pertains, ultimately, to the Philippines' legitimacy to export seafarers.

DATA AVAILABILITY STATEMENT

Research data are not shared.

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ENDNOTE

ⁱ In 2005, ISF reported that the monthly onboard salary of ratings working in dry cargo vessels was, in US dollars, as follows: India, 1280–1485; Philippines, 1155–1485; and China, 900–1100 (Ruggunan, 2011). Myanmar ratings' average monthly salary in 2014 was \$1148 (D'agostini, 2017).

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